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### Current Topics.

#### The Gold Mining Case.

THE DECISION of the House of Lords in the *Rhodesian Gold Mining Case* (*Times*, 9th inst.) is an interesting example of how the hearing of a case becomes simplified and shortened on successive appeals. The original hearing before Mr. Justice EVE lasted some 140 days, but then all the facts of a very complicated and abstruse matter had to be gone into. The hearing in the Court of Appeal took thirteen days, and the House of Lords despatched the case in seven days. In that tribunal it may be surmised the issues had been reduced to the smallest compass possible, having regard to the nature of the case. In each tribunal the decision went against the plaintiff company, the *Amalgamated Properties of Rhodesia* (1913) (*Limited*).

#### The Efficacy of Secret Treaties.

THE QUESTION of the efficacy under present circumstances of the Treaty of London of 1915, to which we refer on another page, calls attention to the power of the Crown to conclude treaties without the assent of Parliament, and accordingly to enter into secret treaties. It is, says Blackstone (Vol. 1, Ch. 7, p. 249), "the King's prerogative to make treaties, leagues, and alliances with foreign States and princes"; and as to this there is, in constitutional law, no doubt. But the same authority adds at once the corrective:—"And yet, lest this plenitude of authority should be abused to the detriment of the public, the constitution . . . hath here interposed a check by the means of Parliamentary impeachment, for the punishment of such Ministers as advise or conclude any treaty which shall afterwards be judged to derogate from the honour and interest of the nation." This corrective, however, obviously assumes that the treaty shall be published, for if a treaty can be made in secret, and then kept secret indefinitely, the Ministers responsible may be beyond impeachment when this remedy becomes available. Hence it has been said by a competent authority that a formal treaty,

made and ratified without communication of it to Parliament, "would in no way bind the nation, which would be free to accept or repudiate its proposed obligations whenever they should be made in public" (Lord COURTNEY's "The Working Constitution of the United Kingdom," p. 315). Upon this footing it would be competent for Parliament to repudiate the Treaty of London, since, although it is common property, there has to this day been no official publication of it. But no doubt exception can be taken to the correctness of the late Lord COURTNEY's deduction. In the United States, as is well known, while the power of making treaties is vested in the President, yet this must be done with the advice and consent of the Senate—i.e., the concurrence of two-thirds of the senators present—and hence publicity is effectually secured. Lord BRYCE seems to think that this would not suit European conditions, and he points out that "the Republic, though her power has now crossed the Pacific, keeps consistently to her own side of the Atlantic" (The American Commonwealth, 1911 Ed., Vol. 1, p. 108), which shews how quickly works of authority get out of date. At the same time he recognizes that, even in Europe, secrecy is not always considered the right policy, and he points out (p. 109, note) that in 1886 a resolution was all but carried in the House of Commons desiring all treaties to be laid before Parliament for its approval before being finally concluded. It will be remembered that in regard to the Declaration of London, 1909, Parliament successfully intervened to prevent its ratification.

#### Executory Agreements in International Law.

THE QUESTION, however, of the efficacy of the Treaty of London under present circumstances is not concluded by the fact that at the time when it was made it became binding as between the parties to it. If the principles of equity apply to international affairs—and it can hardly be denied that, standing as they do on broad considerations of natural justice, they must—then much has happened since which may have the effect of abrogating the legal obligation of the treaty. In particular, it must be taken to be abrogated so far as it is inconsistent with the "fourteen points," and the further points, which formed the basis of the Armistice agreements of last November. Clearly, consideration was given for these agreements, since the belligerent States laid down their arms on the faith of them, and it was therefore solely a question how their terms, which were executory in their nature, were to be translated into executed agreements. That a certain latitude is allowed in the translation into practice of executory terms is a familiar head of equity, as *Glenorchy v. Bosville* (Cas. t. Talb. 3) reminds us. It is a question not of the actual words used, but of the words which will most effectively carry out the settlor's intent. Similarly, if it were possible to bind down "the Big Four"—or so many of them as for the time being may be left in the discussion—to equitable principles, they would take the Wilsonian terms on which the Armistice agreements were based as their guide, and decline to do more (save by common consent) than translate them into practice. And the terms so translated would, as being subsequent to the Treaty of London, override it whenever they were inconsistent with its provisions. On this footing the frontiers of Italy would be readjusted along clearly recognizable lines of nationality (point 9); the people of Austria-Hungary would be accorded the freest opportunity for autonomous development (point 10); and "no special or separate interest of any single nation or any group of nations can be made the basis of any part of the settlement which is not consistent with the common interest of all" (point 3 of Mr. WILSON's speech of 27th September, 1918). Mr. WILSON forcibly calls attention to these considerations in his appeal to Italy of the 23rd inst.; whether the appeal will be effective is undecided. In any case, no one will underrate the difficulties of translating his principles into concrete application, even if the considerations to which we have adverted are accepted.

#### Dividend Statements.

ANY ATTEMPT towards the reformation of some of the interest or dividend statements which have in the past been furnished to stock and share holders is, in our judgment, worthy of commendation. We observe, therefore, the efforts in this direction of the Chartered Institute of Secretaries with considerable interest, and not without hopefulness of consequent improvement. As our readers are aware, we have advocated that, by general consent and for general convenience, these useful documents for reference should be of uniform size (like business letters, briefs, and professional drafts), of similar phraseology, and of sufficient detail. No one desires unduly to increase the labours of the clerical staff in a secretary's department; but clerks' work should not be diminished at the cost of disrespect for the general convenience. We confess we consider the much-improved forms of statement which, as we understand, are suggested by the Institute to err, in a measure, in this respect. It is not right to throw on a payee the task of calculating, from the material afforded, the exact amount deducted for income tax on his holding, however simple that calculation may be to one versed in figures; and in the case of many old-established and large companies the adoption of such a practice would, we need hardly recall, be a novel and retrograde proceeding. The practice might be justifiable in pre-war times, when only a small minority of the payees required to ascertain the exact amount; but with the present severe and graduated taxation it is quite another matter, the majority of the payees having reason to state the exact amount with precision, and the income tax authorities to check their statements. Is it not SENECA who says that it was the wisdom of ancient times to consider what is most useful as most illustrious? To furnish a payee with no statement to retain for reference is most impractical and inconvenient, and consequently disobliging. It saves clerical work, but causes much trouble to private and fiduciary holders, especially when, as is common, the warrant is immediately paid into a bank. Even at the risk of having some diversity in form, should perversity or selfishness dictate it, stock holders would greatly prefer, and might reasonably expect, to be excused making a copy of the particulars in the warrant. Will not some young legislator take the subject up, and obtain a long-called-for rectification, especially now the loans to Government are so much increased?

#### Domestic Forums and Quasi-Judicial Inquiries.

THE JURISDICTION of the Court to restrain associations from expelling their members has been the subject of many decisions, the latest of which is *Law v. Chartered Institute of Patent Agents* (ante, p. 447), in which the plaintiff sought to restrain the defendants on the ground that the institute, acting by their council, were not impartial, by reason of their having on a previous inquiry before the Board of Trade acted as prosecutors or accusers of the plaintiff on the same charge of unprofessional conduct. EVE, J., pointed out that each member of the council was bound to bring to the discharge of his judicial duty an unbiased and impartial mind, and that, even if there was a reasonable suspicion of that person's impartiality, that was sufficient to disqualify, even though there was in fact no bias; and he held, therefore, that the resolution to expel the plaintiff was *ultra vires* and invalid. The case followed the decision of the Court of Appeal in *Allinson v. General Medical Council* (1894, 1 Q. B. 758), but it differed from that and other cases in the same category in that the defendant institute had previously applied for and supported an inquiry into the same complaint against the plaintiff before a committee of the Board of Trade. This, however, as the learned Judge held, did not debar the defendants from considering the same complaint under their rules, though it did, as already stated, invalidate their resolution expelling the plaintiff. The case is also noteworthy as indicating the way in which similar cases ought to be dealt with in the future. On this point the learned Judge made some interesting observations which deserve notice. The primary duty, he said, of the institute is to its members, and although its services were largely made use of by the Board of

Trade, it ought not to undertake the duties of an obsequious handmaid of the Board. Its first duty in cases like the present was to protect and vindicate the character of the accused, or at least to require his accusers to come into the open and make good their accusations. With regard to the Board of Trade committee, he distrusted the justice administered by a tribunal sitting in private, unassisted and untrammelled by the salutary rules regulating procedure and the admission of evidence, uncontrolled by the invigorating and corrective criticism provoked by publicity, and finally wrapping up its findings in a secret communication to the department which appointed it. FARWELL, L.J., once stated that he could not trust the whole Bench of Bishops to do justice under such conditions; and EVE, J., with a respect for the Episcopate not less profound than that of the late Lord Justice, entirely adopted his language.

#### The Ministry of Health Bill.

WE NOTED last week that the Ministry of Health Bill, after being amended by the Standing Committee, has been read a third time in the House of Commons, and has been sent to the House of Lords. We have already explained the general scheme of the Bill (*ante*, p. 385). Clause 1 authorizes the appointment of a Minister of Health "for the purpose of promoting the health of the people throughout England and Wales." Clause 2 gives him general powers and duties in relation to health, but the introduction in Committee of the words we previously noticed confines them to such powers as are necessary to enable him to exercise his specific powers and duties under the Act. Then by Clause 3 there are transferred to him at once all the powers and duties of the Local Government Board and of the Insurance Commissioners; and of the Board of Education with regard to expectant and nursing mothers and small children. And the powers and duties of the Board of Education with respect to the medical inspection and treatment of children and young persons are also transferred at once, instead of being left, as in the original Bill, to subsequent transfer by Order in Council; but there is a proviso enabling certain matters affecting local education authorities to be delegated by the Minister of Health to the Board of Education. There are also immediately transferred the powers of the Privy Council under the Midwives Acts, 1902 and 1908, and the powers of the Home Secretary as to infant life protection under Part I. of the Children Act, 1908. But the power of the Insurance Commissioners in regard to the Medical Research Committee are reserved out of the transfer to the Ministry of Health and are handed over to the Privy Council. There are left for subsequent transfer by Order in Council—the health powers of the Minister of Pensions, the powers of the Home Secretary under the Acts relating to lunacy and mental deficiency, and generally any other Government powers relating to health. The provision enabling powers not relating to health to be retransferred to other departments is retained, but without specifying any of these—such as public libraries and museums—in a schedule as in the original Bill. And the clause allowing Poor Law functions to be retransferred on any future revision of the Poor Laws stands. Clause 4, under which "consultative councils," which must include women, will be established, remains unaltered (see *ante*, p. 399, for the draft Order for this purpose); but there have been some important changes in Clause 8 relating to Orders in Council, and an Order is not to be made for the transfer of powers to or from the Minister of Health unless the draft has been approved by both Houses. The clause applying the Act to Scotland has been struck out. But in general the Act seems to have received little change in its passage through the House of Commons.

#### Mining Royalties.

MEMORIES in a democracy are proverbially short. Therefore most people seem to have wholly forgotten that the Royal Commission now sitting, under the presidency of Mr. Justice SANKEY, to report on nationalization of the mines is not the first Commission within our generation which has

had to consider the methods of carrying on the mining business in England. It was so recently as 1893 that a Royal Commission investigated what was then the burning question of mining royalties—a question raised by the colliery companies, and not by the miners. It was alleged that these royalties hampered enterprise, but the Commission took a different view. The royalties affected no one except the consumer, they held. It is interesting to note that the evidence before the old Commission shewed three real or fancied grievances on the part of colliery lessees. First, they had to pay "dead rent"—i.e., an estimated minimum of royalties per acre of minerals leased, whether or not they earned this sum. "Dead rent" is analogous to "dead freight" in the case of a ship. The owner agrees to pay this rent, but if the royalties exceed it, the rent is included in the sum due by way of royalty. If not, then the lessee loses badly on his bargain. The second grievance was the payment of "way-leaves," or rents for the privilege of carrying coal across surface land or through adjacent mines. In South Staffordshire, a coal county of small landed properties, these payments were very numerous and vexatious. The third grievance was the rental of the surface-ground required for offices and generating plant and refuse-tip at the head of the pit-shaft. As this was the property of the mineral-owner, it was considered rather an imposition to charge both royalties and pit-head rent. The royalties, themselves, by the way, were calculated in quite different ways. One method was "acreage," or a payment of so much per acre of coal-seam. A second was "foot-acreage," or a payment of so much for each foot deep of coal in an acre of seam. A third was "tonnage," or so much per ton—usually 3d. to 10d. A fourth was, "rateage," or a fractional part (usually one-seventeenth) of the selling price of the coal. It will be interesting to see whether the evidence before Mr. Justice SANKEY's Commission discloses any variation in these methods. It may be added that the nationalization of coal is likely to produce considerable changes in the form of mining leases—the most formidable of conveyancing documents—assuming, that is, that it does not supersede them altogether.

#### Trustees and Income Tax.

IN OUR issue of 25th January (*ante*, p. 223) we noticed the case of *Williams v. Singer* (1918, 2 K. B. 749), where Mr. Justice SANKEY decided that the domicile of the *cestui que trust*, and not the trustee, was the governing consideration in determining the liability to income tax. In commenting on that decision it was pointed out that the Income Tax Acts recognized equitable ownership as a substantial form of ownership quite distinct from that of the legal owner. This view of the Income Tax Acts is now confirmed by the result of an appeal from Mr. Justice SANKEY's decision. The Court of Appeal last week (*Times*, 16th inst.) dismissed the appeal of the Crown, and held, in accordance with the decision below, that the income of a beneficiary who is not domiciled in the United Kingdom, obtained from property abroad, but no part of which comes to the United Kingdom, is not liable to income tax by reason of the beneficiary's trustees being domiciled and resident in England. The Master of the Rolls dealt specifically with the argument that a trustee for a foreigner domiciled abroad was to be assessed in respect of all property vested in him, without regard to the trust. If that were so, super-tax would have to be assessed in the same way, and the larger the aggregate income the higher the rate of super-tax, so that "a beneficiary of limited means would suffer by having a wealthy trustee." The case turned on section 5 of the Finance Act, 1914, but a number of other sections were referred to, and all these, in cases arising after the 5th April last, must now be sought in their new setting in the Income Tax Act, 1918. Thus section 100 of the Act of 1842, section 2 of the Act of 1853 (both charging sections), section 41 of the Act of 1842 (trustees, guardians, &c.), and section 5 of the Finance Act, 1914 (income from foreign property), are now all to be found in the Schedules and Rules which constitute the

First Schedule to the Act of 1918. Schedule D. begins: "1. Tax under this Schedule shall be charged in respect of," &c.; "2. Tax under this Schedule shall be charged under the following cases respectively," &c., "Case IV." being "tax in respect of income arising from securities out of the United Kingdom," &c. The "Rules applicable to Case IV." proceed to re-enact in similar language the provision of section 5 of the Finance Act, 1914, above referred to. Section 41 of the Act of 1842 (above referred to) is found among "General Rules applicable to Schedules A, B, C, D and E." The present case of *Williams v. Singer* affords, in fact, an excellent test of the utility of the new consolidation effected by the Act of 1918.

#### Duplicity of Illegality.

A NOVEL and extremely ingenious point of law—perhaps one might almost say of legal sophistry—gave trouble to the Divisional Court in *Elder v. Kelly* (1919, W. N. 111). It is an offence under section 6 of the Sale of Food and Drugs Act, 1875, to "sell" an article not of the nature, substance and quality demanded by the "purchaser." Where the article demanded is milk, the purchaser is presumed to ask for pure milk, and by statutory regulations such milk is defined as possessing a certain percentage of fat. To sell milk deficient in fat is, therefore, like the sale of milk excessive in quantity of water, an offence under the statute. Now, in the present case the respondent sold the milk on Sunday. He sold it to a milk inspector's assistant. And so the defence got the opportunity to over-persuade the justices with a very clever argument. All sales on Sunday, which infringe the Sunday Observance Act, 1676, are prohibited and avoided. That statute permits milk to be sold before 9 a.m. and after 4 p.m., but the effect of section 1 is to avoid sales between these hours. The milk in this case was sold at 10 a.m., and therefore the sale was illegal. Hence, argued the defence, the sale was void *ab initio*; therefore there was no "sale" and no "purchaser"! Therefore no infringement of the Sunday Observance Act! Alternatively, if there was a sale, the inspector was a party to an illegal act—his own purchase on Sunday within prohibited hours—and was estopped from setting up his own illegal act against the respondent. These arguments apparently were too much for the justices who tried the case and acquitted. But the inspector appealed, and the Divisional Court not unnaturally refused to be hoodwinked by a rather obvious fallacy; they allowed the appeal and remitted the case for conviction. For the illegality, at most, only avoided the contract of sale, so that no civil suit to enforce it is maintainable. It did not cancel out the illegal act of selling milk deficient in fat; it only added on another illegality, that of sale on Sunday. Two blacks do not make a white, and a crime does not cease to be such because the acts which constitute it happen only to constitute another offence. On the other hand, the trial and conviction for one of the two offences should be a bar to subsequent prosecutions for the alternative offence, since *Nemo bis vexari debet*.

#### Extraordinary Traffic.

ONE of the most peculiar developments of English Local Government Law is the principle which governs liability in the case of what is known as "Extraordinary Traffic." This quasi-statutory phrase is not a "term of art," but rather a popular name for a class of traffic first distinguished from other road traffic, and made to bear a special burden, by section 23 of the Highways and Locomotives Amendment Act, 1878. It has undergone expansion under the guise of judicial interpretation, however, until it has acquired almost the sanctity of an original common law rule.

At common law two classes of persons, and two only, were liable to assist in repairing public roads. The first consisted of the persons on whom the general duty of maintaining the roads was cast, usually the inhabitants at large of the parish; but

in certain special cases these might be either a landowner liable *ratione tenuræ* or an encloser liable under an enclosure scheme *ratione clausuræ*. Of course, the mode of securing enforcement of this liability to maintain and repair was an indictment for misdemeanour, now converted into a civil penal action by the Judicature Act, 1873. And, of course too, the inhabitants at large have been successively replaced, under a series of Highway and Local Government Acts, by (1) the surveyor of highways, (2) a road board, and (3) a county, district, or parish council, according as the highway is a main road, an ordinary road, or a mere public footpath.

The second person on whom the common law cast a burden was anyone who commits a nuisance against the highway. Excessive or improper user of the road might constitute such a nuisance, which—like non-repair—was, and is, a criminal misdemeanour. But the criminal remedy was cumbrous and unsatisfactory in this case, as in the more general one of non-performance of their common law duty to repair by the inhabitants at large. So it was replaced by a civil liability of a rather peculiar kind by the Highways and Locomotives Act, 1878.

Section 23 of the statute just named provided that where "extraordinary expenses" were certified by the surveyor of highways to have been incurred in respect of damage done to a road by "extraordinary traffic" or "excessive weight" on the part of any person or contractor under whose orders the traffic took place, the "extraordinary expenses" so incurred could be recovered from that person. By an amending Act of 1898 the damages recoverable were limited to expenses incurred within twelve months preceding the issue of the writ, and if the haulage which did the damage was of a continuous nature, to six months before the issue of the writ. Many questions have arisen under these statutes, some procedural only, and some of a substantive nature. The only one of these questions with which we are concerned is that which has arisen as to the nature and reason of the liability which the statute was intended to impose.

Now, if the matter were one that remained open, we should be strongly inclined to take the view that the statute did not intend to alter the common law principle of liability for nuisance, but merely to provide a convenient civil remedy in place of indictment. If this view is correct, then the intention of the Legislature was simply to say that persons whose traffic was a nuisance and injured the roads should be compelled to abate their nuisance by paying the cost of restoring the road to its previous state. This simple view is quite consistent with the phrase "injury" by "extraordinary traffic" or "excessive weight," these being the two ways in which a nuisance might arise. But this view was not taken, and, indeed, has never been properly argued in any case. From the commencement the Court proceeded on the view that a novel liability based on a novel principle had been created by the Legislature, and laid down a rule or series of rules accordingly. It is only of late years that a judge here and there (see Lord Buckmaster in *A.G. v. Great Northern Ry. Co.*, 1916, 2 A.C. 356, 366) has suggested that "nuisance" may have been intended to be the basis of liability. And it is too late to attempt such an interpretation now.

Failing this simple rule, the courts have been forced to define "extraordinary expenses." Gradually the two leading cases have been distinguished, in both of which the statutory liability arises, (1) ordinary traffic of "excessive weight," and (2) "extraordinary" traffic of normal weight. The former is liable because of the alternative "excessive weight" in section 23. The latter constitutes the chief subject of liability under the section. We must proceed to analyze it more closely in the light of the cases. When this is done, three clearly enunciated principles emerge to light.

The first principle distinguishes "ordinary" from "extraordinary" traffic. Ordinary traffic is traffic which satisfies three conditions precedent: first, it belongs to an established local industry; second, it is carried on by the customary local transport; and, third, it is not carried on in an abnormal manner or to an excessive extent:

*Hill v. Thomas* (1893, 2 Q. B. 333). As against traffic which satisfies all of these three conditions precedent must be set traffic which breaks any one of them. For example, if a novel industry is started in a neighbourhood, such as by the opening of a stone quarry where none before existed, the quarry is a new industry, and the haulage of stone from and to it, however reasonable in quantity and mode of traction, is "extraordinary traffic," which exposes its undertakers to the statutory liability: *Hill v. Thomas* (*supra*). Again, if the roads have been only for horse traffic in the past, he who introduces motor wagons to transport his products to market has introduced "extraordinary traffic." Further, an individual, even if he follows an old-established industry by its accustomed mode of transport, may arrange to have all his haulage done in a very short period of time or in some such abnormal way, and this, too, is extraordinary traffic.

The second principle laid down is of equal importance in practical consequences with the one just explained. It is that a novel industry may in time become one of the normal industries of the countryside, and when this happens the traffic ceases to be extraordinary: *Sharpness New Dock v. Attorney-General* (1915, A. C. 654, at p. 665, *per Lord ATKINSON*). The same result follows when a novel mode of transport, e.g., motor traction, becomes the normal mode in the district served. "There may be unusually heavy traffic," says Lord BUCKMASTER in *Attorney-General v. Great Northern Railway* (1916, 2 A. C. 356), "which, originally extraordinary traffic upon a particular road, becomes ordinary owing to the changed circumstances of the district through which the road passes." In the same way, a concentrated user of side-roads by the vehicles of a co-operative society may gradually become the accustomed mode of serving a district, and so cease to be an extraordinary manner of using them: *Barnsley British Co-operative Society v. Worsborough U.D.C.* (1916, A. C. 291).

The third principle is less important in practice. It is just this: If an individual is conducting a local business in a normal way with normal modes of transport, the mere fact that his business greatly expands and he does ten times the amount of haulage he did before does not constitute "extraordinary traffic." The fact that one successful competitor now does all the traffic formerly done by ten rival firms does not affect the ratepayers or the character of the road, and so does not give a claim for "extraordinary repairs." Indeed, even an increase of ordinary traffic resulting from the expansion of a business is normal: the road authority must provide at the public expense a highway sufficient to bear the expanding traffic of a growing neighbourhood: *Ledbury R.C. v. Somerset* (31 T. L. R. 295). This is a principle of sound common sense, and its enunciation in recent cases has helped to stifle a tendency on the part of some road authorities to try and get their roads repaired at the expense of large users of the highway.

The latest case on this interesting doctrine of "extraordinary traffic" is *Weston-super-Mare U.D.C. v. Henry Butt & Co. (Limited)* (reported elsewhere). Here the road authority preferred against quarry-owners two claims, one a common law claim for nuisance, and the other a statutory claim for extraordinary traffic. The former claim was not sustained by the Court, otherwise an interesting question might have arisen as to how far damage caused by a nuisance of this kind is "special" damage due to a public nuisance, and therefore recoverable. The claim for "extraordinary traffic" damage was sustained, both before Mr. Justice EVE and the Court of Appeal. The way the point arose was this. Quarrying for stone was an ordinary industry of the neighbourhood. But until 1913 the traffic was borne by horse-power; in that year the defendants introduced a new mode of transport, namely, motor traffic. This is one of the heads of "extraordinary traffic," unless and until this mode of transport becomes the usual one in the neighbourhood; it is no use to contend that it has been already adopted everywhere else. The tort is not general user, but previous local user. For this reason the "extraordinary traffic" character of the transport could not be seriously denied; indeed, it seems

also to have been "excessive weight," since motor-loads of twenty tons replaced horse-loads of three tons. The case is especially interesting because of a careful review of the authorities in an instructive judgment delivered by the Master of the Rolls.

## Title Under Limitation Statutes. Extinguishment and Transfer.

THERE cannot be said to exist at present any consistent or satisfactory theory of the *modus operandi* of limitation statutes in depriving one man of property in land and conferring property in the same land on another. In practical effect the new owner gains a title by prescription, though this is not the way to speak of the transaction in the technical phraseology of English law (see "Limitation Statutes and Prescription," *ante*, p. 299). The title thus gained will be a legal estate in fee simple, if the person who has lost his land owned it in fee (see "Limitation Statutes and the Fee Simple," *ante*, p. 351). And if the land, instead of being owned in fee, is only held for a term of years by the person whose right to recover it is gone, then the person who becomes the new owner usually takes only a leasehold, leaving the freeholder's or reversioner's rights and title unaffected by the mere change in the ownership of the term: *Walter v. Falden* (1902, 2 K. B. 304). (The change in the leasehold ownership may, however, incidentally make a considerable difference to the reversioner.) But the precise method by which the former owner loses and the new owner gains a fee simple, or leasehold interest, as the case may be, is in the present state of the case law on the subject quite undetermined. In the absence of a settled theory it is not possible to say what the rights of the new owner are under many circumstances.

So far as the fee simple was concerned Lord ST. LEONARDS and Lord WENSLEYDALE were content to say that the limitation statute had "executed a conveyance to the party whose possession is a bar" (*Scott v. Nison*, 1843, 3 Dr. & War. 388, 407), or had made "a Parliamentary conveyance of the land to the person in possession" (*Doe v. Sumner*, 1845, 14 M. & W. 39, 42). Section 34 of the Real Property Limitation Act, 1833, however, merely "extinguishes" the former title, and it has been pointed out in an interesting article in the *Law Quarterly Review* for July, 1918—"A Paradox of Sugden's"—that Lord ST. LEONARDS probably thought the section meant that the former owner's estate was released by way of extinguishment and not annihilated altogether. Since the former owner had a fee simple and the new owner also had a fee simple in the cases before Lord ST. LEONARDS and Lord WENSLEYDALE, the exact method of transference was not perhaps important. But conveyancers were not long in pointing out that, particularly where the person in possession had an estate less than the fee, the result of holding that there had been "a sort of involuntary alienation of the estate of the rightful owner" would be that "the adverse possessor would take it subject to the subsisting charges" which might vary from time to time if the land were in settlement (see 1 Dart, V. & P. 6th ed., 463; 1 Hayes on Conv., 5th ed., 269). These views were accepted and acted on by the Court of Appeal in *Tichborne v. Weir* (1893, 67 L. T. 735), a case where the land in question was leasehold. It was held that the new owner did not get the term vested in him so as to make his assignee liable under a covenant to repair contained in the lease. It was, however, laid down generally with reference to the expressions used by Lord ST. LEONARDS and Lord WENSLEYDALE that the effect of section 34 of the Act of 1833 is merely to extinguish the former owner's title and in no sense to assign or transfer his estate to the new owner.

But if the difficulties suggested by DART and HAYES are avoided by the principle laid down in *Tichborne v. Weir*, that principle—as there laid down—goes much too far in the direction of denying the operation and effect of a transfer of the

former owner's estate when change of ownership is brought about through the medium of the Statute of Limitations. A reasonable view of the effect of the Statute in bringing about a mutation of ownership would seem to be that the new owner does take the land for the estate in it held by the former owner, and subject to some of the charges and incidents to which it was subject in the former owner's hands. This can hardly be better described than by saying the estate of the former owner is transferred to the new owner, even though the latter may not be compelled to assume all the liabilities or be entitled to exercise all the rights of the former owner.

The fresh difficulties raised by the case of *Tichborne v. Weir* have been much canvassed in Ireland, where title to leaseholds by long possession under the Statute of Limitations is more common than in England. One of the more recent cases is *O'Connor v. Foley* (1906, 1 I. R. 20). In that case a lease was granted in 1827, and was subject to the statutory prohibition against assignment without the consent of lessor contained in section 3 of the Act 7 Geo. 4, c. 29. An assignment (void under the statutory prohibition) was made in 1855, and the assignee remained in possession, and so gained a title to the leasehold interest under the Limitation Act. In 1876 he purported to execute a settlement, and the question was whether the land or lease was still subject to the statutory prohibition against assignment without consent. It was held by the Court of Appeal that the prohibition against assignment still remained in force and prevented the proposed settlement from taking effect. It was said that the decision in *Tichborne v. Weir* extended "only to liability in contract"; "the effect of the statute of 1826, in making assignment without consent illegal, is independent of contract, it is a statutory incident of the tenancy," so that the person in possession held the lands, "subject to the same incident of inalienability without consent which affected them in the hands of the lessee." It was also observed that *Tichborne v. Weir* was "inconsistent with the view taken years before by great English lawyers"; "although there is not a direct transfer to the wrongdoer who has been in possession, yet the title gained by such possession is limited by rights yet remaining unextinguished, and is commensurate with the interest which the rightful owners lost by the operation of the statute and has the same legal character." It is obvious that, notwithstanding the technical difference between a covenant in the lease itself and a statutory prohibition against assignment without consent, the *ratio decidendi* of *O'Connor v. Foley* is opposed to that of *Tichborne v. Weir*.

It may also be doubted whether the decision in *Re Nisbet and Potts' Contract* (1906, 1 Ch. 386) is consistent with the principle laid down in such wide terms in *Tichborne v. Weir*. In *Re Nisbet and Potts' Contract* the new owner was compelled to hold his land subject to a negative easement created before he took possession. The land here was freehold, and the title gained by the new owner was a fee simple estate. The negative easement was a restrictive covenant binding in equity only. As the new owner was held to have been fixed with notice of this restrictive covenant he was under the same liability with regard to it as if he had taken a conveyance of the land. This appears to be inconsistent with the principle on which the new owner in *Tichborne v. Weir* was held not to be liable under the covenant to repair contained in the lease.

The cases above cited seem sufficient to shew that the doctrine of *Tichborne v. Weir* is neither satisfactory nor to be considered as by any means settled.

Extinguishment of title in the case of freehold land usually implies acquisition of title by someone else as the question to be decided. In the case of leaseholds the lessor himself is sometimes affected by the mutation of the leasehold ownership. The Irish case of *Fields v. Field* (1918, 1 I. R. 140) illustrates this. The lease of a bankrupt lessee was purchased, and an assignment duly taken. The assignee paid rent to the lessor, but left the bankrupt in possession for fourteen years, and so

was barred under the Limitation Act. It was held that the assignee's title being extinguished under section 34, the lessor could not recover any further rent from the assignee.

## The Adriatic Question.

THE difficulty which has arisen at the Peace Congress, and which at the time of writing seems full of danger, is intimately connected with the series of secret agreements which were entered into by the Allies early in the war, and in particular the Treaty of London of 20th April, 1915. So far as the Allied Governments are concerned, it is probable that these agreements would have remained secret to the present day, and the peoples who are directly affected by the present Peace negotiations would have been left in ignorance of a fundamental fact influencing the course of the negotiations. At the same time, they could hardly have been concealed from President Wilson, and he in turn could not, in accordance with his declared principles, have allowed them to remain concealed from the public. In fact, however, the peoples of the various States affected are indebted to the Russian Revolutionary Government for the revelation of the agreements, and, in this country, to the enterprise of a portion of the British Press—notably the *Manchester Guardian* and the *New Europe*—for publishing them. They have been for the last year common property. It is not our province to pass any opinion upon them, but it is pertinent to note that the Treaty of London—the only one which seems to be now of practical importance—has met with a great deal of adverse criticism. The *New Europe*, which includes in its list of British collaborators such publicists as Dr. RONALD BURROWS, Mr. J. L. GARVIN, Sir FREDERICK POLLOCK, and Mr. WICKHAM STEED, has not hesitated to call it "reactionary" (Vol. VI., p. 270) and "iniquitous" (Vol. IX., p. 152). This week a still stronger expression is used (Vol. XI., p. 29).

It is important to know with some exactness what the Treaty of London provided with regard to Italian extension of territory.

By Article 2 Italy undertook, by all means at her disposal, to conduct the campaign in union with France, Great Britain and Russia against all the Powers at war with them. The consideration for this undertaking was as follows. We reproduce only the more important parts of the relevant articles:—

By Art. 4 Italy was, by the future Treaty of Peace, to receive the district of Trentino—that is, the part of the valley of the Adige between the present Italian frontier and the Tyrol; the entire Southern Tyrol up to the Brenner Pass; Gorizia and Gradisca; the entire Istria up to Quarnero (including, that is, Pola), and a number of islands. A Note to this Article indicates how the frontier line is to be drawn.

By Art. 5 Italy was likewise to receive the province of Dalmatia, described in terms which included, it seems, the whole of Northern Dalmatia, together with the ports of Zara and Sebenico.

But by a Note, which was appended, certain territories on the Adriatic were to be included by the Entente Powers in Croatia, Serbia and Montenegro—in the north of the Adriatic the entire coast from Volosca Bay, on the border of Istria, to the northern frontier of Dalmatia, including the entire coast then belonging to Hungary, and the entire coast of Croatia, the port of Fiume, and two other ports, and certain islands, including Veglia; and in the south of the Adriatic, where Serbia and Montenegro had interests, the entire coast from Planka up to the river Drin, with certain ports and islands, including the ports of Spalato, Regurra, Cattaro, Antivari, and Dulcigno.

By Art. 6 Italy was to receive in absolute property Valona (which commands the southern Adriatic), and the island of Saseno, situate at the entrance to the Gulf of Valona, with as much territory—that is, Albanian territory—as would be required to secure their military safety.

By Art. 8 Italy was to obtain all the twelve islands (Dodecanese) then occupied by her in full possession.

By Art. 11 Italy was to get a share in the war indemnity corresponding to the magnitude of her sacrifices and efforts, and by Art. 16 the treaty was to be kept secret.

We need not attempt to consider how far these provisions were aimed at the inclusion under Italian government of districts which were predominantly Italian, and how far they aimed at aggrandizing Italy at the expense of neighbouring nationalities. The acquisition of the Trentino appears to fall within the former category. Much of the rest probably falls in the latter. It is noteworthy that the port of Fiume was expressly withheld from Italy.

But whatever might have been thought of this programme had the war left the Austro-Hungarian Empire, with its many subject races, intact, the whole situation was fundamentally altered by the break-up of that Empire and the emergence of the new Yugoslav State, made up of the Serbs, the Croats, and the Slovenes, the

last being the inhabitants of Carinthia and other parts. The new State was formally created by the Declaration of Corfu of July, 1917. It was at once realized that the satisfaction of the requirements of this State was quite irreconcilable with the terms of the Treaty of London, and steps were taken to endeavour to effect an amicable arrangement between Italy and Jugo-Slavia. At first things went well, and as the result of the efforts of friends of both States a Congress of the Oppressed Nationalities of Austria-Hungary was held at Rome on 8th-10th April, 1918, and it was resolved by representatives of Italy and Jugo-Slavia that the unity and independence of the Jugo-Slav nation was a vital interest of Italy, just as the completion of Italian unity was a vital interest of the Jugo-Slav nation; and, further, that the liberation of the Adriatic Sea and its defence against every present and future enemy was a vital interest of the two peoples, and the resolution continued:—

3. They pledge themselves, also, in the interest of good and sincere relations between the two peoples in the future, to solve amicably the various territorial controversies on the principles of nationality and of the right of peoples to decide their own fate, and in such a way as not to injure the vital interests of the two nations, such as shall be defined at the moment of peace.

4. To such racial groups (*nuclei*) of one people as it may be found necessary to include within the frontiers of the other, there shall be recognized and guaranteed the right to their language, culture, and moral and economic interests.

This resolution appeared at the time to have the support of Signor ORLANDO, the Italian Prime Minister, and is stated to have received his formal adhesion and sanction, and although it was never, so far as we are aware, officially ratified, it was thought not improper to refer to it as the Pact of Rome, and treat it as virtually superseding the Treaty of London. We take the following from an article in the *Times* of 19th December, 1918: "The Southern Slav Question."

"The Pact of Rome was speedily made known to the Jugo-Slavs, still under the yoke of the enemy, and at once received the assent of their leaders, and paved the way for that disintegration of the Austro-Hungarian armies which led to the triumphant conclusion of the war on the Italian front. But some evil spirit seems to brood over the fortunes of Italy, trying to blind her in the legitimate exuberance of victory so as to lead her towards humiliation. For she is going back to the secret treaty, forgetting that it was concluded without the sanction, then impossible to obtain, of the nation concerned, or even of Serbia; forgetting that the United States was no party to it, and, above all, forgetting that the Pact of Rome virtually superseded the secret treaty and helped to lead to Italian victory."

This passage indicates what has occurred since the Congress of Rome, and has given rise to the present position. Baron SOSSINO appears never to have given up the programme which he won in the Treaty of London, and Signor ORLANDO, who was prepared to adapt it to the new condition of affairs, has receded from this position. And not only has the Italian Government decided to press its claims under the Treaty of London, but to claim, in addition, the port of Fiume, from which that treaty had expressly excluded it. It has been hoped that President Wilson would find an equitable solution such as would reconcile Italy and the new State of Jugo-Slavia, but so far the position appears to have proved too difficult either for the persuasion of Mr. Wilson or the tactful handling of Mr. LLOYD GEORGE.

## Reviews.

### The New Hazell Annual.

THE NEW HAZELL ANNUAL AND ALMANACK FOR THE YEAR 1919. By T. A. INGRAM, M.A., LIT.D. GIVING THE MOST RECENT AND AUTHORITATIVE INFORMATION CONCERNING THE BRITISH EMPIRE, THE NATIONS OF THE WORLD, AND ALL THE IMPORTANT TOPICS OF THE DAY. TOGETHER WITH MUCH ASTRONOMICAL AND OTHER USEFUL MATTER. Thirty-fourth Year of Issue. Henry Frowde; Oxford University Press; Hodder & Stoughton. 6s. net.

In a book which has come annually before the public for so long, and which has succeeded in compressing into a reasonable compass such a mass of well-arranged and useful information, we naturally look for the additions which are suggested by current events, and we are not disappointed. Under "Aviation in 1918" we find a long list of raids by the Allies on enemy objectives, beginning in December, 1917, and a list of raids on England, which is carried back to December, 1914, for the purpose, probably, of showing by comparison how the number had diminished in 1918 compared with the previous year. These are aeroplane raids.

The airship raids are given separately, but these were chiefly in 1915 and 1916. Other phases of the war are collected under "The European War," and in some fifty pages the events of the war are summarized and many useful details given, including the operations on the various fronts, and the re-distribution of the peoples of Central Europe, and also the terms of the armistices with Germany and Austria. Other parts of the Annual are too varied for mention in detail, but we may notice that useful and full statistics are given as to the Courts and official legal matters; and the Annual is a mine of statistical information as to foreign countries.

## Books of the Week.

Probate, Divorce and Admiralty Law.—Gibson & Weldon's Student's Probate, Divorce and Admiralty: Explanatory Treatise on the Law and Practice in Probate, Divorce and Admiralty Matters. Eighth Edition. By H. GIBSON RIVINGTON, M.A. (Oxon), and A. CLIFFORD FOUNTAINE. The "Law Notes" Publishing Offices.

Emergency Legislation.—Increase of Rent and Mortgage Interest (Restrictions) Acts, 1915-1919. Fourth Edition. By the Editors of "Law Notes." The "Law Notes" Publishing Office. 3s. 6d. net.

## Correspondence.

### Trading with the Enemy and Professional Etiquette.

[To the Editor of the Solicitors' Journal and Weekly Reporter.]

SIR.—An interesting question involving the right of counsel to withhold information from Government officials on the ground of privilege, was propounded to the Committee on Professional Ethics of the New York County Lawyers' Association. The question was as follows:—

"In the opinion of the Committee may an attorney who was lawfully employed during peace by a person now an alien enemy, disclose, without the consent of his client, confidential information received from the client in the course of his former employment, upon the demand of the Alien Property Custodian or his local representative or agent?"

To this the Committee replied:—

"The Committee does not assume to express any opinion respecting the proper construction of the Trading with the Enemy Act, or the constitutionality of any of its provisions; nor can it assume to determine whether it was the purpose or intent of Congress to abrogate the privilege of the client (though an enemy or ally of enemy), or whether the declaration of war abrogates such privilege. It is of the opinion that the attorney cannot waive the privilege, but that the primary responsibility of determining the question of the abrogation is upon those charged under the law, and under the rules and regulations promulgated by the President, with the duty of administration. It is, consequently, of opinion that when called upon to disregard the privilege, the attorney should assert it in behalf of his client, whose privilege it was; and that he may, with propriety, comply with the determination of the functionary charged with the administration of the law and acting under colour of his office.

"Since the Committee does not undertake to decide upon either the construction of the law or the constitutionality of its provisions, it is of the opinion that a lawyer who believes that the power to abrogate the privilege has not been delegated to the functionary, and who desires in good faith to test the validity or interpretation of the law by refusing to answer and abiding the consequences of refusal, may without professional impropriety do so."

The above is reported in the March, 1919, number of *Bench and Bar* (New York).

CHARLES HENRY HUBERICH.

New York. April 10th, 1919.

## CASES OF LAST SITTINGS. House of Lords.

WEINBERGER v. INGLIS. 18th, 20th, and 21st March; 7th April.

STOCK EXCHANGE—ANNUAL RE-ELECTION OF MEMBERS—EXCLUSION OF BRITISH SUBJECT OF ENEMY BIRTH—DISCRETION OF COMMITTEE—BONA FIDES—NON-INTERFERENCE BY COURT.

A rule of the Stock Exchange provided that the Committee for General Purposes should, on a particular day in each year, proceed to re-elect such members and admit such candidates as they should deem eligible to be members for one year. The plaintiff, a British subject, born in Germany, had been a member for over twenty years, but objection was taken on the ground of his enemy birth, and he was refused re-election by the Committee at the election in March, 1916.

*Held, that the plaintiff, having had every opportunity afforded him of putting his case fully before the Committee, and they, in the honest and bona fide exercise of their discretion, having come to the conclusion that he was ineligible, the Court had no power to interfere.*

*Decision of the Court of Appeal (52 SOLICITORS' JOURNAL, 450; 1918, 2 Ch. 517) affirmed.*

Appeal by the plaintiff from an order of the Court of Appeal (reported 52 SOLICITORS' JOURNAL, 450; 1918, 2 Ch. 517, 115 L. T. R. 769). At the close of the arguments The House took time for consideration.

Lord BIRKENHEAD, C., said that the appellant, Hugo Weinberger, was born at Nuremberg, Bavaria, in 1866, when Bavaria was at war with Prussia. He came to England in his twenty-first year, and at the earliest moment permitted by the law of this country, in 1892, he became a naturalized British subject, taking the oath of allegiance on 1st April in that year. In 1894 he became a clerk on the London Stock Exchange, and a year later he was elected a member. He paid an entrance fee of 500 guineas and for twenty-one years he paid an annual subscription of 30 guineas. At various times between 1904 and 1911 he acquired shares in the Exchange to the aggregate value of more than £4,000. These financial undertakings did not, for the purposes of this appeal, affect the character of the contract into which he entered, but they were part of the history of the case. His firm consisted of four partners, himself, the two Seligmans, who were American citizens, and Pearson, who was a British subject. Every member of the London Stock Exchange must, under the rules, be re-elected every March. The appellant was so re-elected without question or criticism from 1895 to 1916. In 1896 he married an Englishwoman, born in England, of German origin. By her he had two sons and two daughters. At the relevant dates the sons were public schoolboys, and each was a member of the Officers' Training Corps at his school. His wife and his two daughters had been engaged in patriotic work since the outbreak of war. His wife had four brothers, of whom all four had served as combatants in the war. No charge had ever been brought to his notice, except that he was born in Bavaria—a constituent State of an Empire at war with Great Britain—and Mr. Upjohn, who cross-examined him at length in the court of first instance, made no suggestion to him of disloyalty in word or thought to the country of his adoption; and it might be finally added that he instructed his counsel to make no reflection upon the *bona fides* of the gentlemen who at the relevant period were members of the Committee of the London Stock Exchange. The question which required their lordships' decision was whether or not the Committee of this Exchange were entitled, under its constitution and the powers which they derived from that constitution, to refuse at the relevant period to re-elect the appellant as a member. In 1915 an anti-German union was formed among the members of the Stock Exchange, and the committee of this body thereafter continued to press upon the Committee of the Stock Exchange the adoption of a strong policy in relation to enemy-born members. The anti-German element continued to press upon the Committee by petition and otherwise that enemy-born members should not be re-elected. On 5th January, 1916, the Committee, which had power under the deed of settlement to make and alter rules for the regulation of business, passed a rule that no candidate of German, Austrian or Hungarian birth should be eligible for election to the Exchange. In March, 1916, a meeting took place on the Stock Exchange, at which the following resolution was proposed and carried: "That this meeting agrees to oppose the re-election of all persons of alien enemy birth who were elected subsequent to March, 1895, with the exception of those who are serving, or have sons serving, in the Imperial Forces." For that resolution 408 members voted, forty-one voted against it, and thirty-six of those present did not vote. In January, 1917, the Committee altered Rule 10 by excluding from the necessity for confirmation a decision of the Committee dealing with the re-election of members. The plaintiff sent in the usual application for re-election, and was informed by a letter that a notice of objection under Rule 35 had been lodged with the Committee on the ground of enemy birth. He was asked to send, for the information of the Committee, a written statement of all facts which he desired to bring to the notice of the Committee. Subsequently the Committee interviewed the appellant. He did not think it necessary to recall what took place, because he was satisfied, both from the procedure prescribed by the Committee and from the evidence, that in fact the only matter considered by the Committee was, first, whether the appellant was enemy-born, and, secondly, whether he was able to establish any such extraordinary circumstance in his case as would remove him from a general rule which in normal cases he thought they had made up their minds to apply. He was offered, both by letter and when he appeared before the Committee, every opportunity of putting forward such circumstances. The Committee had before them more than 100 cases. They apparently voted in each case. The votes varied in almost every case. It was, he thought, plain that each case received some reasonable degree of individual attention. If the time consumed on an individual case was sometimes short, the explanation might well have been, as he thought it was in the present case, that the particular member took very little time in setting out the facts in his own case which he thought specially favourable to himself. Out of 107 members of enemy birth fifty were re-elected, fifty-seven were not. The appellant was among the rejected. The question, therefore, which required decision was this: On the above facts were the Committee entitled under Rule 21 (1) to deem the appellant ineligible to be a member of the Stock Exchange? They had to ask themselves this question, and this question only: "Whom do we deem eligible to be

members of the Stock Exchange for the coming year?" Put in another (and, he thought, a better) way, the question might be expressed thus: "Who in our opinion ought to be re-elected, with due regard to the interests of the Stock Exchange and the community as a whole?" It would be remembered that in answering this question they were not limited to their own knowledge and experience as British citizens, but they were aware of and bound by the policy of the Treasury restrictions. The Committee formed their opinion. It was conceded that they formed it honestly. They formed it, in his opinion, upon grounds which were made known to the appellant and which he had a chance of answering. The short answer, therefore, to the appellant's case was that the Committee did not deem him eligible to be a member of the Stock Exchange, and that neither their good faith nor their mode of procedure had been successfully impugned. No doubt the distinguishing circumstances in the various cases were sometimes very slight, so that a member elected appeared to be almost in the same position as a member not elected, but the Committee thought there was a real distinction. They thought so honestly. And such nice discriminations could only be made by committees. It was for this very reason that discretion was given to committees. How could their lordships or any court of justice examine 100 cases? He had set out the facts relied upon by the appellant, for he had little doubt that he had suffered much in every way by reason of the decision, and he thought that he was entitled to have them plainly published: It might even be that in a calmer atmosphere the Committee, which at a grave moment was disinclined (and he did not criticize them) to take any risks, might be willing under peace conditions to accept as a satisfactory credential thirty years of British citizenship unimpeached upon the essential point of integrity to the substituted allegiance. But, however that might be, he was satisfied that the action of the Committee was warranted by the Rules, and that the jurisdiction of the Courts could not in such a case as this be substituted for that of the Committee. The appeal failed.

Lords BUCKMASTER, ATKINSON, PARMOOR and WRENBURY read judgments to the like effect. Order accordingly.—COUNSEL, for the appellant, Gore-Browne, K.C., and Alexander Neilson; for the respondents, Upjohn, K.C., Han, Frank Russell, K.C., and Douglas Hogg, K.C. SOLICITORS, Herbert Smith, Goss, King & Gregory; Travers-Smith, Heathcote & Co.

[Reported by ESKIN, REID, BARRISTER-AT-LAW.]

## Court of Appeal.

DE KEYSER'S ROYAL HOTEL (LIM.) v. THE KING. No. 1. 18th-23rd July, 22nd October, 17th December, 21st, 22nd and 23rd January, 9th April.

(Continued from p. 447.)

WARRINGTON, L.J., who delivered judgment in agreement with that of the Master of the Rolls, allowing the appeal, said the present case differed in its facts from *In re a Petition of Right* (1915, 3 K. B. 649), first, in that the subject matter of that case was an aerodrome on the coast, and secondly, that there possession seemed to have been taken altogether *in invitum*. Moreover, there was a great mass of material before the Court not before it in the previous case. It was not disputed by the suppliants that in the circumstances the Crown had power by its officers to take and use the subject's land; the sole question was as to the legal right to compensation. The many ancient records which had been submitted to the Court had at least the negative virtue that there was no trace in any of them of an assertion on the part of the Crown to take and keep possession of a subject's land without paying for it. It was not necessary, however, to decide whether an exercise of the prerogative would give rise to any and what rights in a subject, as the Solicitor-General admitted (and in his lordship's opinion rightly) that where an act of the Crown was authorized by statute, any pre-existing prerogative right to do the same act was merged in the statutory authority, and the act in question must be deemed to have been done by virtue of the latter. In his lordship's opinion it was clear that under the Defence Act, 1842, possession might have been obtained subject to certain restrictions, and that those restrictions were suspended by the Defence of the Realm Regulations. The Act, therefore, was done under statutory authority, and prerogative was out of the question. [His lordship then discussed the earlier Defence Acts and sections 16, 19, 23 and 34 of the Act of 1842, and proceeded:] So matters stood until the outbreak of the war and the passing of the Defence of the Realm Act, 1914, which enabled the possession of land to be taken at once without the necessity of observing any preliminary formalities or conditions. Those conditions, however, had no application to the provisions as to the ascertainment and payment of compensation—a question which could be settled at leisure. As a matter of construction he would come to the conclusion that the object of the Act of 1914 was not to confer powers to acquire land, but to recognize and rely on the power existing under the Defence Act, 1842, and to enable the Crown to make the process of putting it into force easier and more speedy. The true result of the legislation appeared to be that the Defence Act, 1842, the Act of 1914, and the Regulations must be read together, and that the power to acquire possession was still derived from the Defence Act, 1842, but was regulated by the Act of 1914 and the Regulations. This contention was not put forward or considered *In re a Petition of Right* (*supra*), but the view his lordship now took, and was satisfied was correct, disposed of the diffi-

culties which led the Court in that case to hold that the Defence Act, 1842, was not applicable to the existing circumstances. There remained the question whether the provisions for compensation were suspended by the recent statute. The Court took that view (Pickford, L.J., with much hesitation) in the previous case, but his lordship did not now hesitate to say that, though he had then expressed that view, he was now satisfied on the further argument they now possessed showing the course of legislation and practice in time of national danger, that such view was not correct. He could not see how the circumstances under which the Act of 1914 was passed led to the conclusion that Parliament intended not only to render the taking possession of land as easy and rapid as possible, but also to deprive the subject of the right to compensation, recognized even in times of grave national danger. There was no necessity to suspend it, and it remained unaffected. In his lordship's opinion the suppliants were entitled to a declaration such as was claimed by paragraph 4 of the prayer of the petition.

DUKE, L.J., in the course of a long dissenting judgment, said the suppliants alleged a voluntary delivery of the premises in question to the representatives of the Crown upon an agreement for payment of a fair rent or other compensation, and apart from agreement they further claimed to be paid rent for use and occupation under the Defence Act, 1842. The alleged agreement was traversed by the Crown, and the Attorney-General alleged necessity for occupation by reason of a state of war, and that possession was lawfully taken by virtue of the Royal Prerogative, as well as by virtue of the Defence of the Realm Act, 1914, and the Regulations made thereunder, and that no rent or compensation was by law payable to the suppliants under the Defence Act, 1842, or at all. The prerogative powers claimed could only come in question in the event of the security of the kingdom being threatened by a foreign enemy. The alleged rights of the Crown had their origin before legal memory, and were incongruous with modern practice. The process resorted to by the suppliants was of limited scope, the jurisdiction of the Court being practically no greater than it was in the seventeenth century. To determine the appeal four things must be ascertained—(1) the facts as to the alleged agreement; (2) the rights of the Crown apart from agreement; (3) the rights of the subject, apart from agreement; and (4) the jurisdiction of the Court to pronounce a judgment. (His lordship, having referred to the facts as to the taking over of the hotel, proceeded:) The alleged agreement for occupation could not be sustained upon the facts as found by Peterson, J. The argument for the Crown on the question of prerogative was based on the duty of defending the realm, and doing all things incident thereto, including the occupation of land whenever military necessity, as to which the Sovereign was constitutionally the arbiter, required: *Hampden's case* (3 Howell's State Trials, 826). The right of the Crown to enter upon the land of a subject for purposes of public defence was unanimously affirmed by the judges in the *Case of Saltpetre* (12 Rep. 13). (His lordship then referred to the judgments of two judges—Crooke, J., and Hutton, J.—whose opinions in the former case were adverse to the claims of the Crown, and continued:) A right to summon all subjects to defend the realm by personal service (Foster, 157, 158, Fitzherbert Nat. Brev. 192 Co. Lit. 75, 76); the power of the sovereign to issue commissions of array; the power of impressment of ships and men for the Navy (Chitty, ch. IV., Selden, Mare Clausum, ch. 20, 1 Blackst. Comm. 419); and the exclusive authority to erect fortifications (Comyn's Digest, tit. Prerogative), were clear instances of prerogative rights at common law. A right to enter upon lands when military defence required was recognized in various cases cited in the *Shoreham case* (*In re a Petition of Right*, 1915, 3 K. B. 649). Litigation upon such questions could hardly occur between the subject and the Crown, but the absence of legal records was relied on by the suppliants as proof of non-existence of the alleged rights. The searches made in the Record Office produced no proofs of payment except for lands purchased or rented under statutory powers. In his lordship's opinion, the absence of decided cases and of records of payments or other admissions did not support the suppliants' case, but rather tended to destroy it. There were numerous cases between subjects in early times where the plea of necessity for public defence was successfully raised, as in the Year Books, 8 Ed. 4, H. 41; 27 Hen. 7, T. 27b; 14 Hen. 8, pl. 16, and these were confirmed in Chitty on the Prerogative, Bk. 4, sect. 5, and by the *Case of Saltpetre* (*supra*). In his lordship's opinion the law, both before the Defence Act and now, was that in the case of necessity for public defence the Crown might enter upon the subject's land as of right, and remain in occupation while the necessity continued. (See the observations of Lord Parker in *The Zamora* (1916, L. R. 2 A. C. 77, at p. 100). The suppliants, however, contended that whatever prerogative rights existed at common law had been abrogated by modern legislation. Reliance was placed upon a series of temporary measures enacted at intervals from 4 Hen. 6 to 38 Geo. 3, and on permanent Acts, but more particularly the Defence Act, 1842. It could not be disputed that an Act of Parliament might determine once and for all an ancient right of the Crown, and certain Acts, such as those of the reign of Charles 2, had done so, but they were specifically directed against the powers with which they dealt. The rights of the Crown could not be abated by statute unless the intention was clear and unmistakable upon the face of the statute: *Wheaton v. Mepile* (1893, 3 Ch., at p. 64); *Coomber v. Berks Justices* (L. R. 9 A. C., at p. 96). *Gorton Local Board v. Prison Commis-*

*sioners* (1904, 2 K. B. 167). There was nothing in the language of the Defence Act, 1842, to suggest an intention on the part of the Legislature to deprive the Crown of any of its common law powers. Its clauses were all enabling clauses. In his lordship's opinion, the powers of the Crown under the Prerogative were not abated by any of the temporary Acts, or the Defence Act, 1842. Turning to the Defence of the Realm Consolidation Act, 1914, section 1, appeared to declare the powers of the Crown in terms that affirmed the existence of prerogative rights, but it also conferred new powers undefined and absolute in character. The effect of section 1 was considered by the House of Lords in *R. v. Halliday* (1917, A. C. 260), and the absolute nature of the powers reposed in the Crown was clear from the judgments then delivered: "The power must be exercised honestly," "but there is no other limit upon the acts that the Regulations may authorize" (*per* Lord Wrenbury, at p. 307). Regulation 2 made thereunder provided that it should be lawful for the competent naval or military authority, where necessary to secure the public safety, (a) to take possession of any land, (b) to take possession of any buildings. There was no reason to suppose that section 2 of the statute was intended to fetter the powers conferred by section 1, by imposing any of the conditions under the Defence Act, 1842. The action of the Crown had not been challenged on the ground of absence of necessity, and the words of the Regulation, "where it is necessary," could not be construed as having any relation to the question of compensation. The test of necessity was incontestably established by the determination of the Crown. (See *per* Lord Parker in *The Zamora* (*supra*)). The Defence of the Realm (Acquisition of Land) Act, 1916, s. 1, took notice of the fact that possession of land had been taken by the Crown for purposes connected with the war, "in exercise or purported exercise of prerogative rights." It would be pedantic to ignore the reflections naturally provoked by insistence upon prerogative rights at a time when most of the relations of the subject with the Crown had for centuries been determined by statute, but that consideration related to public policy and not to legal right. Any restriction of the Executive Government in times of public peril was properly subjected to careful scrutiny. Parliament was well able to prevent an oppressive exercise of such powers by the Executive. The jurisdiction of the High Court upon petitions of right did not extend beyond two classes of cases, (1) the recovery of property wrongfully in the possession of the Crown, (2) the payment out of the Exchequer of money due upon contractual obligations of the Crown: *The Banker's case*, *Hornby v. Rex* (5 Mod. Rep. 57) and *Thomas v. Reg.* (L. R. 10 Q. B. 31). Generally speaking, the long series of enactments from the Statute of Westminster 2nd to the Judicature Acts did not give any rights to the subject against the Crown. The amendments of the Petition of Right Act, 1860, extended to procedure only. Here the suppliants were not asking the Court to restore property, but seeking to enforce payment of a debt. Their claim for money due for use and occupation was rightly disallowed by the learned Judge at the trial; an agreement for such a payment could not be implied where the occupation relied on was against the claimants' will: *Churchward v. Ford* (2 H. & N. 446) and *Sloper v. Saunders* (29 L. J. Ex. 275). The claim made that an entry upon land in the exercise of the Prerogative of the Crown always gave a right to compensation was not supported by any authority, but was said to be warranted by the past practice of the Crown. No instance appeared in the documents produced from the Record Office of payment upon any claim such as was made in the present case, or indeed of the occurrence of any such claim, but when prerogative rights existed which had been abolished by statute, they carried with them at the time of their abolition certain customary or common law rights on the part of the subject to receive payment in respect of the exercise of the prerogative, and the origin of every such right, his lordship believed, could be traced. The course of events in such cases was well illustrated by the history of the prerogative with respect to the impressment of ships—Selden Mare Clausum, chap. 20, and the Parliament Rolls, Vol. 2, p. 175. Assuming the occupation of the suppliants' premises by the Crown to be by virtue of the Royal Prerogative, his lordship was of opinion that it did not create any right to compensation, and the reasons for his opinion extended to claims in respect of an occupation under the Defence of the Realm Consolidation Act, 1914. Payment was, therefore, he thought, left at the discretion of the Crown. No regulation had been made to suspend the restrictions imposed by various Acts, including the Defence Act, 1842, on the acquisition of land, but Regulation 2 of the Defence of the Realm Regulations gave unqualified powers to the authorities to take possession of land and buildings for purposes of public safety or the defence of the realm. Regulations had been made providing for the assessment of compensation for acts done under the powers of the Act of 1914 in derogation of the rights of the subject, but no Regulations purported to create any right to compensation in respect of the occupation of land in place of the means provided by the Act of 1842. There was no authority for holding that, in the absence of proceedings and an award of compensation thereunder, there was any debt due from the Crown to the suppliants which one of His Majesty's judges could direct to be paid out of the Exchequer. To say that the Ministers of the Crown must be deemed to have proceeded under the Act of 1842, and that a liability resulted as a matter of law, was to set up a ground of claim founded on a legal fiction, and the King was not bound by legal fictions: *Sheffield v. Ratcliffe* (1616, Hobart, 330). On the whole, his lordship was of opinion that the case for the Crown was made out, that the suppliants

had not the rights for which they contended, nor the Court the jurisdiction to redress their grievances. He regretted the difference of opinion which obliged him to deal at length with a subject of much complexity and great importance with regard to national defence and the relative rights of the subject and the Crown.—COUNSEL, *Sir John Simon, K.C., Leslie Scott, K.C., and Copping; Sir Gordon Hewart, A.G., Sir Ernest Pollock, K.C., Austen-Cartmell, Lowenthal and Branson; Sir Lewis Coward, K.C., and P. Whinney. SOLICITORS, Miller & Smiths; The Treasury Solicitor; Lawrence Webster, Messer & Nicholls.*

[Reported by H. LANGFORD LAWIS, Barrister-at-Law.]

**WESTON-SUPER-MARE URBAN COUNCIL v. HENRY BUTT & CO. (LIM.).** No. 1. 24th and 25th March.

**HIGHWAY—EXTRAORDINARY TRAFFIC—SUBSTITUTION OF MECHANICAL FOR HORSE TRAFFIC—REPAIR—RECOVERY OF EXPENSE—HIGHWAYS AND LOCOMOTIVES AMENDMENT ACT, 1878 (41 & 42 VICT. C. 77), s. 23—LOCOMOTIVES ACT, 1898 (61 & 62 VICT. C. 29), s. 12.**

*The test whether traffic is extraordinary or not is whether at the time of its introduction there was any existing traffic imposing a burden on the road comparable with it in quantity or frequency. If there was, then the new traffic, although it increased the burden on the road, was only increased ordinary traffic. If there was not, then the new traffic was extraordinary.*

*Decision of Eve, J. (62 SOLICITORS' JOURNAL, 739), affirmed.*

*Sharpness New Docks Co. v. Attorney-General (1915, A. C. 654) and Attorney-General v. Great Northern Railway (1916, A. C. 356) applied.*

Appeal by the defendants from a decision of Eve, J. (*supra*). The plaintiffs in the action claimed as the highway authority to recover £1,750, the amount of the extraordinary expenses which had been incurred by them in repairing highways known as Arundel, Bristol, and Upper Church-roads and Park-place, Weston-super-Mare, by reason of the damage done by the excessive weight passing along the highways, and the extraordinary traffic caused by the order of the defendants, and in the alternative the same sum as damages for wrongful or excessive uses. The defendants denied that their traffic was extraordinary, or that it had caused the damage complained of. They carried on business as quarry-owners, working a limestone quarry near the town, and the whole of their traffic in stone, lime, and coal to and from the quarries passed into and out of the town by certain roads. Until August, 1915, this traffic was carried in horse-drawn vehicles, but in that month the defendants introduced a steam wagon, with a trailer, and in January, 1916, another steam wagon and trailer were added. There was evidence that this traffic caused serious damage to the roads in question. The steam wagons made sometimes as many as sixteen journeys a day, and weighed, with the load carried, twelve tons, while the trailers weighed eight tons, loaded. Eve, J., holding that the plaintiffs could only recover expenses for so much of the damage as was done within twelve months preceding the issue of the writ, under section 12 of the Locomotives Act, 1898, gave judgment for them for £280, with costs, except so far as such costs were increased by a claim on the ground of nuisance. The defendants appealed.

*The Court dismissed the appeal.*

SWINFEN EADY, M.R., in his judgment, stated the facts above, and said that it appeared, from a census taken of the number of vehicles passing along the Bristol-road between May and October, 1916, that out of 3,213 heavy motor vehicles passing along the road, all except some 247 were the defendants' vehicles. The question was whether in the circumstances the defendants were liable in respect of extraordinary expenses for the year ending in February, 1917, connected with two roads called Bristol-road and Church-road. There was no doubt that it was the duty of local authorities having control of highways to keep them in a state fit to accommodate the public traffic. The proposition was stated by Lord Atkinson in *Sharpness New Docks, &c., Co. v. Attorney-General* (1915, A. C. 654) as follows (p. 665):—"My lords, in the argument of this appeal many authorities were cited to establish that it is the duty of the road authorities to keep their public highways in a state fit to accommodate the ordinary traffic which passes, or may be expected to pass, along them. As the ordinary traffic expands or changes in character, so must the nature of the maintenance and repair of the highway alter to suit the change. No person really contests this principle." But in addition to what might at any time fall under the definition of ordinary traffic, there was extraordinary traffic, and it was to that traffic that section 23 of the Act of 1878 applied. What was extraordinary traffic. In *Ledbury Rural District Council v. Somerset* (81 T. L. R. 295), Buckley, L.J., interpreting the words of Bowen, L.J., in *Hill & Co. v. Thomas* (1895, 2 Q. B. 333), said that those words meant this—"the traffic must be extraordinary as regards the ordinary use of the road as a whole by all who use it." What was extraordinary traffic at one date might become ordinary traffic at another. In *Attorney-General v. Great Northern Railway* (1916, 2 A. C. 356, 366), Lord Buckmaster said that apart from traffic which constituted a nuisance "there may be unusually heavy traffic which was originally

extraordinary traffic, upon a particular road, becomes ordinary owing to the changed circumstances of the district through which the road runs." So that what was extraordinary traffic depended on the date on which, and the road by which, the traffic passed. So, too, in *Barnsley British Co-operative Society v. Worsborough Urban Council* (1916, A. C. 291, 295) said it was essentially a question of fact, to be determined at the time and under all the circumstances existing when the complaint was made, and, further on, that extraordinary traffic was not the traffic which was due to the slow and normal increase of the development of traffic owing to the development of the district. There was no obligation upon local authorities to maintain their roads at such a standard that extraordinary traffic might pass along it without causing damage. The learned Judge here had considered the facts of the case minutely, and had addressed himself to what was the proper test. The defendants were liable in the present case, not on account of the weight of material transported by them along the roads, but because the mode of transport had been completely changed. The same amount might have been transported in horse-drawn vehicles without giving rise to such a claim as the present one. The transport had been in carts with a total weight when loaded of three tons, and it was not effected by steam wagons and trailers having an aggregate weight when loaded of twenty tons, and it was that that had caused the great increase in the wear and tear of the roads. It was not alleged that any of the new vehicles were improperly constructed or employed in an improper manner, but they had introduced a class of traffic which was not the ordinary traffic of the roads. The learned Judge was right in his decision that the plaintiffs had established their claim to extraordinary expenses, and the appeal would be dismissed.

WARRINGTON and SCRUTTON, L.J.J., delivered judgment to the same effect, the latter observing that in view of the authorities the appellants' arguments had been addressed to the wrong tribunal, but might have some chance of succeeding in the House of Lords. Extraordinary traffic in 1919 still meant the same thing as it had when defined by Lindley, L.J., in 1879.—COUNSEL, *W. A. Jowitt; Macmorran, K.C., and Scholfield. SOLICITORS, Joynton Hicks, Hunt, & Co.; Head, Steele, & Co., for Wm. Smith & Sons, Weston-super-Mare.*

[Reported by H. LANGFORD LAWIS, Barrister-at-Law.]

## High Court—Chancery Division.

**Re HEAD. HEAD v. HEAD.** Sargant, J. 27th March.

**TRUSTEE—INVESTMENT IN WAR LOAN—PROHIBITION IN WILL—FINANCE ACT, 1917 (7 & 8 GEO. 5, C. 31), s. 35.**

*Section 35 of the Finance Act, 1917, empowers trustees to disregard a prohibition in their testator's will against investing more than a limited amount of the funds of the trust in any one security, and enables them to invest an unlimited amount in Government securities.*

*Where a testator provided that not more than £500 should be invested by his trustees in any one security, the Court held that the trustees were entitled to make an investment of £4,000 in 5 per cent. War Loan.*

This was an originating summons taken out by trustees asking "whether it was and is competent for the plaintiffs, as trustees of the testator's will, in view of the provisions of the War Loan (Trustees) Act, 1915, and the Finance Act, 1917, s. 5, sub-section (1), notwithstanding the provision of clause 7 of the testator's will, to invest a sum or sums in excess of £500 in the purchase of War Loan 5 per cent. Stock or the other war stocks issued by His Majesty's Government." The facts were these: The testator by his will provided that his trustees should invest his residue in or upon any of the public stocks or funds or Government securities of the United Kingdom or India, or any colony "or other securities therein named," provided that not more than £500 shall be invested in any one security," with trusts in favour of the widow and the children and grandchildren. There was one child of the marriage, an infant, who was a defendant to this summons. In 1918 the trustees had in good faith invested £4,000 in 5 per cent. War Loan, and were desirous of investing a further sum in such loan or in National War Bonds, and accordingly took out this summons.

SARGANT, J., after stating the facts, said: The power to disregard the prohibition in the will is said to be given by section 35 of the Finance Act, 1917, but for the purpose of construing that section it is desirable to refer first to the War Loan (Trustees) Act, 1915. Section 3 of that Act applies not merely to a subscription to or investment in a loan under the War Loan Act, 1915, made in pursuance of the power to borrow given by section 1, but to exonerate trustees from breaches of trust where they are taking up war securities without having borrowed for the purpose. That Act applies only to a particular war loan, and section 35 of the Act of 1917 is merely a more elaborate version of the enactment of 1915, made so because it has to apply to "any Government loan raised for the purpose of the present war." While in the earlier part of the section what is contemplated is borrowing for the purpose of investment, the latter part authorizes "subscription or investment in" the securities in question, whether accompanied by a previous borrowing or not, and applies whether the securities are purchased by means of borrowing or by the investment of cash in hand. The trustees are now entitled to invest any trust moneys in the Government securities in question, and are entitled to make the previous investment of £4,000 in 5 per cent. War Loan.—COUNSEL, *P. Whinney, for the trustees; Gordon, for the infant defendant. SOLICITORS, Munns & Longden; H. W. & S. Patey.*

[Reported by L. M. NAY, Barrister-at-Law.]

### THE MIDDLESEX HOSPITAL.

WHEN CALLED UPON TO ADVISE AS TO LEGACIES, PLEASE DO NOT FORGET THE CLAIM OF THE MIDDLESEX HOSPITAL, WHICH IS URGENTLY IN NEED OF FUNDS FOR ITS HUMANE WORK.

## New Orders, &c.

### New Statutes.

On the 16th inst. the Royal Assent was given to the following:—  
 The Intestate Husband's Estate (Scotland) Act, 1919.  
 The Representation of the People (Returning Officers' Expenses) Act, 1919.  
 The Army (Annual) Act, 1919.  
 The Parliamentary Elections (Soldiers) Act, 1919.  
 The Local Elections (Expenses) Act, 1919.  
 The War Charities (Scotland) Act, 1919.  
 The Naval, Military, and Air Force Service Act, 1919.  
 The Criminal Injuries (Ireland) Act, 1919.  
 and to several Provisional Orders, local and private Acts.

## War Orders and Proclamations, &c.

The *London Gazette* of 18th April contains the following, in addition to matters printed below:—

An Order in Council, dated 15th April, extending to the Isle of Man the Defence of the Realm Regulations of 10th February, 1919 (*ante* p. 291).

The *London Gazette* of 22nd April contains no matter requiring notice.

## Board of Trade Order.

### FUEL WOOD ORDER, 1918—REPEAL.

Pursuant to the provisions of the Articles of Commerce (Relaxations of Restrictions) Order, 1918, the Board of Trade give notice that the Fuel Wood Order, 1918, will cease to have effect as from the 30th April, 1919. [Gazette, 18th April.

## Ministry of Munitions Order.

### THE GAS WORKS RETORT CARBON, &c., CONTROL (SUSPENSION) ORDER, 1919.

In reference to the following Order made by the Minister of Munitions, namely:—

The Gas Works Retort Carbon, &c., Control Order, 1918, dated the 19th April, 1918, the Minister of Munitions hereby orders as follows:—

1. The operation of the said Order is hereby suspended on and after the date hereof until further notice.
2. Such suspension shall not affect the previous operation of the said Order or the validity of any action taken thereunder or the liability to any penalty or punishment in respect of any contravention or failure to comply with the said Order prior to such suspension or any proceeding or remedy in respect of such penalty or punishment.
3. This Order may be cited as the Gas Works Retort Carbon, &c., Control (Suspension) Order, 1919.

[Gazette, 18th April.

## Food Orders.

### THE IMPORTED CANNED CONDENSED MILK (REQUISITION) ORDER, 1918.

#### General Licence.

1. On and after 18th March, 1919, until further notice, canned condensed milk for the time being outside Great Britain may be bought, sold or dealt in free from the restrictions imposed by Clause 2 of the above Order [S.R. & O., No. 299 of 1918].
2. Clause 1 of the above Order shall not apply to any canned condensed milk which may arrive in Great Britain after 31st March, 1919, provided that, except under the authority of the Food Controller, no such milk shall be sold or disposed of before 1st June, 1919.

18th March.

### THE MAIZE PRODUCTS (RETAIL PRICES) ORDER, 1918.

#### General Licence.

The Food Controller hereby authorizes all persons concerned until further notice to buy and sell maize flour, maize flake, maize semolina, hominy, cerealine or maize meal free from the restrictions imposed by the above Order [S.R. & O., No. 1040 of 1918].

21st March.

## NOTICE OF REVOCATION.

In exercise of the powers conferred upon him by the Defence of the Realm Regulations and of all other powers enabling him in that behalf, the Food Controller hereby revokes the Orders mentioned in the Schedule hereto as from 21st March, 1919, but without prejudice to any proceedings in respect of any contravention thereof.

21st March.

#### THE SCHEDULE.

The Deer (Restriction of Feeding) Order, 1918 [S.R. & O., No. 22 of 1918].

The Growing Grain Crops Order, 1918 [S.R. & O., No. 402 of 1918].

# ROYAL EXCHANGE ASSURANCE.

INCORPORATED A.D. 1720.

FIRE, LIFE, SEA, PLATE GLASS, ACCIDENT, BURGLARY, LIVE STOCK, EMPLOYERS' LIABILITY, THIRD PARTY, MOTOR CAR, LIFT, BOILER, FIDELITY GUARANTEES.

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WHEN HEALTH IS IMPAIRED.

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LAW COURTS BRANCH: 29 & 30, HIGH HOLBORN, W.C. 1.

## THE RATIONING ORDER, 1918.

Notice relating to the Use of Sugar in Catering Establishments and Institutions.

1. On and after 23rd March, 1919, until further notice:—

(a) Sugar may be used, supplied or consumed in any catering establishment or institution free from the restrictions imposed by Clauses 18 and 28 of the above Order [S.R. & O., No. 894 of 1918].

(b) The amount of sugar to be sold or supplied by a caterer under Clause 19 of the above Order shall be 6 ozs. instead of 9 ozs. as provided by the directions prescribing the scale in catering establishments, dated 17th January, 1919 [S.R. & O., No. 34 of 1919].

(c) The scale prescribed by the Food Controller for the purposes of Clause 20 of the above Order and contained in the above-mentioned directions, shall be amended, so far as regards sugar, by the substitution of the words "3/14th oz." for the word "nil" wherever such word occurs.

24th March.

## THE CATTLE FEEDING STUFFS (MAXIMUM PRICES) ORDER, 1918.

#### Notice.

In exercise of the powers reserved under the above Order [S.R. & O., No. 173 of 1918], and of all other powers enabling him in that behalf, the Food Controller hereby orders that as from 26th March, 1919, the notices varying the maximum price of flour millers' offals issued under the above Order and dated 7th February and 24th February, 1919 [S.R. & O., Nos. 119 and 224 of 1919], be revoked, and prescribes that as from 26th March, 1919, until further notice the maximum price on a sale of flour millers' offals shall be:

(a) On a sale of fine flour millers' offals, £12 per ton;

(b) On a sale of coarse flour millers' offals, £11 per ton;

and that if any question arises as to the meaning of the words "fine" and "coarse" as hereby applied to flour millers' offals, such question shall be decided by the Flour Mills Control Committee.

26th March.

## THE BEANS, PEAS AND PULSE (RETAIL PRICES) ORDER, 1917.

#### General Licence.

On and after 27th March, 1919, until further notice, any beans, peas or pulse to which the above Order applies may be sold or bought free from the restrictions imposed by the above Order or the General Licence dated 14th August, 1917 [S.R. & O., Nos. 511 and 523 of 1917], provided that such beans, peas or pulse where sold in bulk may be sold only by weight, and where they are sold in packages there shall be plainly printed on the outside of the package the name of the person by or for whom it was packed, the month in which it was packed, the gross weight of the packet, and the net weight of the beans, peas or pulse.

27th March.

## THE RATIONING ORDER, 1918.

#### General Licence.

1. On and after the 31st March, 1919, bacon and ham and lard may be supplied and obtained free from the restrictions imposed by or under the above Order [S.R. & O., No. 894 of 1918].

2. The directions for retailers of bacon and ham and lard and their customers dated 31st December, 1918 [S.R. & O., No. 1795 of 1918], are hereby revoked as from the 31st March, 1919, without prejudice to any proceedings in respect of any contravention thereof.

28th March.

## NOTICE OF REVOCATION.

In exercise of the powers conferred upon him by the Defence of the Realm Regulations and of all other powers enabling him in that behalf

the Food Controller hereby revokes as from the 31st March, 1919, the Milk Products (Import Restriction) Order, 1918, and the Milk Products (Returns) Order, 1918 (S.R. & O., Nos. 901 and 1008 of 1918), without prejudice to any proceedings in respect of any contravention thereof.

1st April.

The following Food Orders have also been issued:—

The Rationing Order, 1918. Notice relating to the Use of Lard and Edible Fats in Catering Establishments and Institutions. 3rd February.

Order revoking the Apricot Pulp and Bitter Oranges Order, 1917. 13th March.

Order amending the Imported Onions Order, 1918. 20th March. The Canned Fish (Retail Prices and Distribution) Order, 1918. Notice. 20th March.

Order amending the Rats Order, 1918. 26th March.

Calves (Sales) Order, 1918. Notice. 26th March.

The Bacon (Prohibition of Export) Order, 1918. General Licence to Ship to Ireland. 28th March.

### Indictment of War Crimes.

A Reuter's message from Paris, dated 23rd April, says:—

The report of the Commission on War Responsibilities, issued yesterday, consists of five clauses.

The first places the whole responsibility for the war on Germany and Austria-Hungary.

The second contains a list of 32 indictments, based on the Hague Conventions of 1864 and 1907, of crimes without the excuse of any military object.

The third gives opinions on the degree of responsibility of members of the enemy forces taken in detail. Personalities, however highly placed, are included, and the Kaiser is named twice by way of example.

The fourth examines the question of procedure appropriate to the creation of the high tribunal demanded without prejudice to the competency of the national military tribunals. The Commission demands that the violation of the neutrality of Belgium and Luxembourg should be the subject of an explicit condemnation at the Conference.

The fifth deals with the violation of the neutrality of Belgium and Luxembourg in a short summary, and otherwise refers to the previous clauses.

### Railway Holiday Travelling.

The following statement is issued by the Railway Executive:—

In view of the serious difficulties of the railway companies in providing engines and rolling stock for the conveyance of traffic, it is desirable that the public should be acquainted with the problems caused by the war, and their effect on the holiday traffic of 1919.

Soon after the outbreak of war, the railway companies placed the whole of their workshops at the disposal of the War Minister for the manufacture of munitions, and for the last four years only the minimum amount of repairs to engines and rolling stock have been carried out. The result of this effort in the national interest is that the companies are left with practically all their engines in need of overhauling and with thousands of passenger coaches unfit for running.

Of the 700 engines and the many trains sent to France and other theatres of war, practically none have as yet been returned.

It is obvious that four years' arrears in repairs cannot be made good by the summer.

The Railway Executive Committee wish to point out that if, following the usual practice, the bulk of the holidays is taken in July and August, there will be difficulty in coping with the traffic. If, however, those who are able to do so will take their holidays in May and June, this will do much to obviate any overcrowding or discomfort that might otherwise arise. It is particularly urged that Tuesdays, Wednesdays, Thursdays and Fridays should be used for holiday travelling, as on those days the traffic is usually lighter.

Companies and business firms are earnestly requested to arrange holiday programmes for their staffs to ensure a proportionate number travelling in May and June.

22nd April.

### Societies.

#### Auctioneers' and Estate Agents' Institute.

Mr. E. H. Blake has been appointed secretary of the Auctioneers' and Estate Agents' Institute on the retirement, after thirty years' service, of Mr. Charles Harris.

Mr. Blake has, in consequence, to give up private practice, and he has accordingly terminated his long connection with the firm of Messrs. Parry, Blake, & Parry, of Victoria-street. Until he enters upon his new duties at Russell-square during the summer, Mr. Blake will continue to occupy the position of assistant chief livestock commissioner at the Ministry of Food, a post which he has held for over a year. Few men are more intimately acquainted with everything which relates to the matters with which the institute is concerned, and he is specially qualified to carry on and develop the excellent work of his predecessor, Mr. Harris.

## The Shooting of an Escaping Soldier by His Escort.

The following is the summing-up of the coroner, Mr. S. I. Oddie, as reported in the *Times* of Thursday, at the inquest on Private R. T. Savage, who was shot and killed near Waterloo Station by one of his escort on the 10th inst., while endeavouring to escape from custody:—

It seems to me that there was something unsatisfactory about the composition of this escort party; because these six prisoners were no ordinary prisoners; they were convicts sentenced to long terms of penal servitude for a very grave offence—desertion in time of war in the field. It does seem to me regrettable that prisoners of such importance should have been placed in the care of three privates and a lance-corporal, who had never done escort duty before. It would seem to me, speaking as a man in the street, desirable that in future when an escort so constituted is put in charge of important prisoners that they should receive some definite instructions. One would have thought that when cartridges are handed out there should be some regulation laying down for the guidance of an escort what their duty should be in the case of emergency. It put on the shoulders of de Bues a very heavy responsibility. The selection of Clarke, a man with valvular disease of the heart, seems indefensible to me. De Bues, for all we know, might have been knocked down by one of the prisoners and unable to assist. Clarke could not run more than a few hundred yards. As regards the transfer of the party from Waterloo to the police station, I do not see you can find fault with de Bues, who had no previous experience, and no conveyance had been provided. If a transport wagon had been provided, this death, in all probability, would not have taken place. It seems to me, regarding the strength of the escort, that it was not strong enough. There ought to have been a sergeant in charge.

The coroner pointed out that the jury must not forget that a man, although he was a soldier, was still a citizen, dressed up in a particular garb. He was subject to military discipline, but he could not evade his responsibility as a citizen. There was no better judge of reason than a British jury. The whole case depended on the question, did the escort act as reasonable men in deciding that they could not recapture these two men in the circumstances except by firing? He was also bound to direct attention to the facts that went against de Bues and Clarke. It was broad daylight; the two prisoners were handcuffed together, and one would have thought it was difficult for them to get away. They might have got into a house, been concealed there for a time and so escape, but it did not sound probable, although it was possible.

As to Clarke, he was a private ordered to fire, and if he did not obey the order he was liable to be punished as a soldier. The law provided that it was no defence to say that a man had committed a crime because he was ordered to do so. If the order was lawful, he had a good defence; but if the order was unlawful he had no defence. That was very hard on a man having no time to make up his mind, but that was the law. Of course, while obedience to an order was not a defence in law, it would go towards mitigation of punishment.

The court was cleared while the jury considered their verdict. After considering in private for about ten minutes, the foreman announced:—"Our verdict is 'Justifiable homicide,' and we should like to add a rider that we consider the escort was insufficient."

### Licences to Use Enemy Patent.

The Controller of Patents, Mr. Temple Franks, who has been for some time in Paris, held a sitting at the Patents Court on Wednesday to consider several applications for licences to use enemy patents.

The applicants included the Birmingham Small Arms Company, who asked for a licence in respect of a German patent machine for the stamping and eyeing of needles.

Sir George Marks, who appeared for the applicants, said that these machines were produced before the war solely in Germany, and the B.S.A. Company proposed to utilise works that had been engaged on munitions in turning out these machines. Both German and Japanese competition was threatened.

The application was opposed on behalf of Mr. Edward White, of Redditch, who had been granted a licence in December, 1914. He said he had made needle machines for thirty-six years.

The Controller said that the grant of a licence would be recommended.

In another case the firm of John Dickinson and Co., of Hemel Hempstead, asked for a licence in respect of a German machine that produces envelope and inner lining in one operation, and the application was granted.

### The Admiralty Courts.

The Admiralty Courts, in which Mr. Justice Hill and Mr. Justice Roche have sat, finished the Hilary sittings on Wednesday, 16th April, having disposed of the whole list of cases standing for trial during the term—102 in all. The increase in the work is shown by a comparison of the total number of actions disposed of in the year 1914 (fifty-six) and in 1915 (seventy-one) with the above number heard last term only. The President has again made arrangements for Mr. Justice Roche to assist Mr. Justice Hill next term.

A remarkable tribute to the Mercantile Marine was paid by Mr.

Justice Roche last week. He said:—"Nobody who sits in this Court often trying accidents which happen in conveyance cases can fail to appreciate the almost matchless skill with which the merchant officers of this country have conducted the conveyance system, which involves the use of most intricate evolutions—which even now cannot properly or usefully be detailed—such as, before this period, it was believed could only be conducted at all by the highly trained officers and crews of his Majesty's Navy, but which have, on the whole, been conducted with such striking success by the officers and crews of the Mercantile Marine, whose courage was never doubted, but whose skill in such a matter had not previously been put to the test."

## Companies.

### Royal Exchange Assurance.

At a Court of Directors it was decided to recommend the General Court, to be held on the 30th April next, to declare a further dividend of 8 per cent., less Income Tax, making 14 per cent., less Income Tax, for the year 1918.

## Law Students' Journal.

### The Law Society.

The following candidates (whose names are in alphabetical order) were successful at the preliminary examination, held on 2nd and 3rd April, 1919:—

Allen, William Laurence.	Powell, Gordon Duff.
Bannister, Edward William Thorn.	Prance, Miles Howard.
Bower, Bartlett St. George.	Randall, Harry Kneller.
Bracewell, William Forrest.	Ratcliffe, Jocelyn Vivian.
Carrington, Philip St. John.	Robinson, Terence.
Clowes, Richard Norman.	Sears, Robert Brierley.
Edgley, Roy Walter Kelsey.	Soloman, Albert Edward.
Elmhirst, Alfred Octavius.	Stanton, John Latham.
Enever, Charles Richard John.	Stone, Francis George.
Fiske, Guy Sanders.	Thomas, Roger Edward Laugharne.
Foster, Joseph Thomasin.	Tomkins, Harold Brockett.
Giffard, Charles Henry.	Walker, Samson.
Horton, Henry Tombs.	Walton, Francis Edwin.
Hull, William.	Ward, Robert.
Jackson, Frederick William.	Watkins, Abraham.
Jackson, Lionel Joseph.	Wheeler, William Edward Cecil.
King, Robert Launcelot.	White, Godfrey McBean.
King-Wilkinson, Leonard Creswell.	White, Leonard William Arthur.
Levet, Theodore Angelo Roderick.	Williams, Bernard Acton.
Marks, James Herbert.	Wilmore, Tom Lawson.
Morgan, Eric Elton.	Withers, Alan Alfred.
Newton, William Copp.	Wood, Arthur Wallace.
Outen, Roland Thomas.	Wood, Philip.
Page, Arthur Douglas.	Wright, Wilfred George.
Pegler, Arthur Richard.	Young, George Henry.

Number of candidates, 81; passed, 50.

By Order of the Council,

E. R. COOK, Secretary.

Law Society's Hall, Chancery-lane, London, W.C. 2.  
17th April, 1919.

## Obituary.

### Sir Henry Bargrave Deane.

The Right Hon. Sir HENRY BARGRAVE DEANE, until 1917 Judge of the Probate, Divorce, and Admiralty Division of the High Court of Justice, died suddenly on Monday at his residence, 52, Eaton-place, S.W., at the age of seventy-two.

Henry Bargrave Fimnelley Deane, who was born on 28th April, 1846, was the only son of the Right Hon. Sir James Parker Deane by his wife, Isabella Frances, third daughter of Mr. Bargrave Wyborn. The Deane family has been long related both to the Bar and to the Church. An ancestor of the late Judge was a member of the Middle Temple in the seventeenth century, while Sir J. P. Deane's career at Doctors' Commons and the Bar was almost unique in its length and distinction.

His son was educated at Winchester and Balliol College, Oxford. He won the International Law Essay Prize at Oxford in 1870, and this was published during the Franco-Prussian War under the title "The Law of Blockade: Its History, Present Condition and Probable Future." He was called to the Bar by the Inner Temple in 1870, and joined the South-Eastern Circuit, on which he practised for twelve years and obtained a good deal of criminal work. In 1886 he became Recorder of Margate, an office he retained until his elevation to the Bench of the High Court. He took silk in 1896. From 1882 to 1906 he practised

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almost exclusively, as a junior and leader, in the Probate, Divorce, and Admiralty Division of the High Court, and he also acted as Official to the Archdeacons of Middlesex, Rochester, and St. Albans. Mr. Deane was raised to the Bench on 1st February, 1906, to take the place of Mr. Justice Gorell-Barnes, who, on the retirement of Sir Francis Jeune, became President of the Division, and as a judge in matrimonial cases he was very successful—notwithstanding he was opposed to divorce on religious grounds—by reason of his extensive experience as a practitioner and his practical and humane disposition.

Sir Henry was in favour of the complete equality of the sexes in the matter of divorce, and considered that the reports of divorce suits should be limited to a statement naming without details the wrong-doer and the person who obtains relief. He considered that the publication of details leads to imitative immorality. The temptations of the poor, through ignorance and bad surroundings, to fall into immorality are great, and hence the Judge considered that various facilities should be offered to the poor for divorce, and that Divorce Judges should sit in selected country districts. He resigned through ill-health his position as President of the Probate, Divorce and Admiralty Division in January, 1917, and was succeeded by Sir Maurice Hill.

Sir Henry Bargrave Deane for many years took a great interest in military matters. He was Lieutenant-Colonel and honorary Colonel of the late 21st Middlesex Rifle Volunteers, and received the Volunteer Decoration. He was also a military member of the County of London Territorial Force Association. He married, in 1875, Edith Mary, daughter of Mr. John Lindsay Scott, of Mollance, Kirkcudbrightshire, and leaves one son.

## Legal News.

### Appointment.

Mr. Justice NORMAN CRANSTOWN MACLEOD, Barrister-at-Law, Puisne Judge of the High Court of Judicature, Bombay, to be Chief Justice of the Court in succession to Sir Basil Scott, who is shortly about to retire.

### Changes in Partnerships.

#### Dissolution.

JOHN HARRIS WRENTMORE and CHARLES FRANKLYN ROWLANDS, solicitors (Wrentmore & Son), 29, Bedford-row. Feb. 28. The said Charles Franklyn Rowlands will continue the practice under the name of Wrentmore & Son. (*Gazette*, April 18.)

## Information Required.

**TO SOLICITORS.**—Will the City solicitor who executed or attested a will since the Armistice for Private **ROLAND BRERETON BARLOW**, late of Bloemfontein, South African Infantry, deceased, kindly communicate with Julian Stephens (Limited), 19a, Coleman-street, London, E.C. 2, agents for the executors.

## General.

It has now been decided, says the *Times* (24th inst.), that an official summary of the Peace Terms shall be delivered to the Press when they are handed to the Germans, but this decision may be altered. At the moment it holds the field.

At the South-Western Police Court, on Wednesday, Herbert Waldron Harvey, living in Barrow-road, Streatham, was summoned before Mr. Bankes, K.C., for damaging the trees in a neighbour's garden. The defendant pleaded that he only removed the overhanging branches, regarding them as dangerous. Mr. Bankes said that since the adjournment he had visited the garden. It was perfectly true that the trees were forcing their way into Mr. Harvey's garden. They were far too large for a suburban garden, and he advised the two neighbours to come to some understanding. He allowed the case to be settled by the defendant's undertaking to remove the fallen branches and to pay 20s. costs.

The Committee on Military Courts-Martial, of which Mr. Justice Darling is the chairman, have met and settled many matters of procedure. A general discussion took place which resulted in agreement as to the obtaining of complete information concerning the working of the law and practice, as at present existing, and resolutions were arrived at as to the investigation of suggested imperfections, as illustrated by concrete instances. Further meetings of the Committee were fixed, and these will be as frequent as possible. Details of the business done cannot be given, as information of a confidential kind must necessarily be placed before the Committee. Lieutenant-Colonel H. F. MacGeagh, C.B.E., A.A.G., is secretary, and Captain G. R. Hill, R.A.F., assistant secretary of the Committee. All communications should be addressed to Lieutenant-Colonel MacGeagh, 68, Victoria-street, S.W.1.

At Lambeth Police Court, on Tuesday, says the *Times*, Grace Mary Holdway, living in Camberwell, was summoned for unlawfully concealing Sapper Holdway, her husband, when she knew him to be an absentee from his regiment. Police-constable Coxford stated that on 5th February he called upon the defendant and asked her if Sapper Holdway were at home. She replied that he was not, but began to cry. On searching the house he found the husband, who asked to be allowed to put on his military uniform. The witness consented, but while he was speaking to the woman he heard a noise and then saw the man disappear over the garden wall. It was stated that the man was arrested about a month afterwards. Inspector Black stated that in conversation with him the defendant said: "You can't expect a wife to give her husband away." Mr. Leicester: I rather agree with what the defendant said. You can't expect a woman to betray her husband. The Magistrate added that technically the defendant was guilty, but he would dismiss the summons under the Probation of Offenders Act.

## DEATH.

**TAYLOR.**—On 12th April, at Birch Cottage, Shortlands, of an illness contracted on active service, Raymond Seaton Taylor, of No. 5, Gray's Inn-square, London, solicitor, aged thirty-five.

**VALUATIONS FOR INSURANCE.**—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM, STORR & SONS (LIMITED)**, 26, King-street, Covent-garden, W.C. 2, the well-known valuers and chattel auctioneers (established over 100 years), have a staff of Expert Valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-à-brac, a speciality.—(ADV.)

## Court Papers.

## Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON				
Date.	EMERGENCY ROTA.	APPEAL COURT No. 1.	Mr. Justice EYE.	Mr. Justice SARGANT.
Monday April 28	Mr. Bloxam	Mr. Syngé	Mr. Farmer	Mr. Jolly
Tuesday .. 29	Borror	Bloxam	Jolly	Syngé
Wednesday .. 30	Goldschmidt	Borror	Syngé	Bloxam
Thursday May 1	Leach	Goldschmidt	Bloxam	Borror
Friday .. 2	Church	Leach	Borror	Goldschmidt
Saturday .. 3	Farmer	Church	Goldschmidt	Leach

  

Date.	Mr. Justice ASTBURY.	Mr. Justice YOUNGER.	Mr. Justice PETERSON.	Mr. Justice F. O. LAWRENCE.
Monday April 28	Mr. Church	Mr. Leach	Mr. Goldschmidt	Mr. Borror
Tuesday .. 29	Farmer	Church	Leach	Goldschmidt
Wednesday .. 30	Jolly	Farmer	Church	Leach
Thursday May 1	Syngé	Jolly	Farmer	Church
Friday .. 2	Bloxam	Syngé	Jolly	Farmer
Saturday .. 3	Borror	Bloxam	Syngé	Jolly

## EASTER SITTINGS, 1919.

## COURT OF APPEAL.

## IN APPEAL COURT No. 1.

Tuesday, 29th April. — Ex parte Applications, Original Motions and Interlocutory Appeals from the Chancery and Probate and Divorce Divisions, and, if necessary, Chancery Final Appeals.

Wednesday, 30th April. — Final Appeals from the Chancery Division will be taken and continued until further notice.

## APPEAL COURT II.

Tuesday, 29th April. — Ex parte Applications, Original Motions and Interlocutory Appeals from the King's Bench Division, and, if necessary, Final Appeals from the King's Bench Division.

Wednesday, 30th April. — Final Appeals from the King's Bench Division will be taken and continued until further notice.

## LORD CHANCELLOR'S COURT.

## MR. JUSTICE EVE.

Mondays ..... Chamber summonses  
Tuesdays ..... { 8ht cases, pps, far con  
and non-wit list  
Wednesdays ..... Non-wit list  
Thursdays ..... Non-wit list  
Lancashire Business will be taken on  
Thursdays, the 5th and 22nd May,  
and the 5th June.  
Fridays ..... Mots and non-wit list

## CHANCERY COURT III.

## MR. JUSTICE PETERSON.

Except when other Business is advertised in the Daily Cause List Actions with Witnesses will be taken throughout the Sittings.

## CHANCERY COURT I.

## MR. JUSTICE SARGANT.

Except when other Business is advertised in the Daily Cause List Mr. Justice Sargant will take Actions with Witnesses throughout the Sittings.

## CHANCERY COURT IV.

## MR. JUSTICE YOUNGER.

Mondays ..... Chamber summonses  
Applications under Trading with the Enemy Acts will be heard on each Monday afternoon  
Fridays ..... { Mots, 8ht cases, pps, and  
non-wit list  
On other days the Business to be taken will be announced from time to time.

## CHANCERY COURT II.

## MR. JUSTICE ASTBURY.

Except when other Business is advertised in the Daily Cause List Actions with Witnesses will be taken throughout the Sittings.

## CHANCERY COURT V.

## MR. JUSTICE P. O. LAWRENCE.

Mondays ..... Sitting in chambers  
Tuesdays ..... { Companies' Acts and non-  
wit list  
Wednesdays ..... Far. con. and non-wit list  
Thursdays ..... Non-wit list  
Fridays ..... { Mots, 8ht cases, pps and  
non-wit list

## KING'S BENCH DIVISION.

## EASTER SITTINGS, 1919.

## CROWN PAPER.

## For Hearing.

The King v Beverley U D C nisi for mandamus to provide Sewers (exple Local Government Board).



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The King v City of London Income Tax Commrs nisi for prohibn from proceeding on assessment (expte P E Singer)  
 The King v Kensington Income Tax Commrs same (expte Same)  
 The King v Same nisi for prohibn from proceeding on assessment for the year 1913-14 (expte Same)  
 The King v Same nisi for prohibn from proceeding on assessment for the year 1914-15 (expte Same)  
 The King v Haytor Income Tax Commrs nisi for prohibn from proceeding on assessment for the year 1913-14 (expte Same)  
 The King v Same nisi for prohibn from proceeding on assessment for the year 1914-15 (expte Same)  
 The King v Commrs of Inland Revenue nisi for prohibn from proceeding with assessments (expte Port of London Authority)  
 The King v Same nisi for mandamus to hear, &c (expte Same)  
 Owners of SS Crown of Leon v Admiralty Commrs special case under sec 19 of Arbitration Act  
 Fox v Kooman Magistrates case information under Customs and Inland Revenue Act, 1879  
 Cordiner v Stockham Magistrates case conviction under Finance (New Duties) Act, 1916  
 The King v Special Commrs of Income Tax nisi for mandamus to allow exemption of income tax (expte Dr Barnardo's Homes)  
 Solr Board of Trade v Ernest Magistrates case information under Registration of Business Names Act, 1916  
 Slater v Lester Magistrates case information under Customs Consolidation Act, 1876  
 Green v Russell Magistrates case conviction under Military Service Act, 1916  
 Scott v Northumberland and Durham, &c Soc special case under Sec 19 of Arbitration Act, 1889  
 The King v Beacontree Income Tax Commrs nisi for mandamus to hear, &c appeal (expte Hedley and Co, Leytonstone Id)  
 Frailey v Charlton Magistrates case information under Customs Consolidation Act, 1876  
 Beauchamp v H M Attorney-General Quarter Sessions order and case conviction Respt's appl  
 Same v H M Solicitor-General same  
 Same v H M Attorney-General same  
 Same v H M Solicitor-General same  
 The King v Dennis and ors nisi for mandamus to Chairman of Vestry of Kenilworth to hold poll (expte Cartwright & Mason)  
 Harris v Lucas Magistrates case complaint under Wild Birds Protection Act, 1880 to 1908  
 Whittaker v Forshaw Magistrates case information under Food and Drugs Act  
 Whitter v Wadley Magistrates case information under secs 116 and 117 Public Health Act, 1875  
 Kensington Guardians v Wandsworth Union Quarter Sessions order and case Appfte's appl settlement of pauper  
 Lewisham Union v Same Quarter Sessions order and case Respts' appl settlement of pauper  
 Major v Harris motion by Plntff for attachment of Deft  
 Grocock v Grocock Magistrates case order for payment of arrears of maintenance  
 Ernest v Commr. of Metropolitan Police conviction under para 14 H (1) of the Defence of the Realm Regulations  
 ISSUE UNDER THE NON-FERROUS METAL INDUSTRIES ACT, 1918.  
 Board of Trade v Gardner

#### CIVIL PAPER.

For Hearing.

H M Postmaster-General v Blackpool & Fleetwood Tramroad Co (Blackpool County Court)  
 Baldock v Mayor, &c of Westminster & ors (Lambeth County Court)  
 Lobitos Oil Fields v The Admiralty  
 Roberts v Ballard (Newport County Court)  
 Nesbitt v Moore  
 Martens & Co v R Godfrey & Co  
 O'Connor v Whitlaw & anr (Windsor County Court)  
 Whitlaw & anr v O'Connor (same)  
 Wood v Shovelton (Bromsgrove County Court)  
 Bromley v Ellis (Lichfield County Court)  
 Kolkenbeck v Diehl & Co  
 Flanagan v Shaw (Dudley County Court)  
 Harte v Dod & Co (Mayor's Court)  
 R Rhodes & Co v Burkett, Sharp & Co Id  
 Oornick v Vickers Id (Birmingham County Court)  
 Capelle v Same (same)  
 Hoogenraad v Same (same)  
 De Graaf v Same (same)  
 Crook v Whitbread (Croydon County Court)  
 Kenealy v Murphy  
 Watson v Fleming & Co  
 Wallace v Lawton (Manchester County Court)  
 Nickson & Co v Faulkner & Winsor  
 Wilkie v Furniture & Fine Arts Depositories Id (Clerkenwell County Court)  
 L M Fischel & Co v Mann & Cook  
 Karberg & Co v Weiss & Co  
 F C & J Dwek v J R & J Hakim  
 Baker v Wood (Exeter County Court)  
 Dear v Hamsher & anr (Mayor's Court)

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#### SPECIAL PAPER.

Ellis v Ruislip-Northwood U D C  
 Same v Same (motion)  
 Clements v County of Devon Inace Committee  
 Shipping Controller v Lloyd Belge (Great Britain) Id  
 Hooley Hill Rubber, &c Co Id v Royal Inace Co Id & ors  
 Boutelet v Koelter  
 Taylor & Sanderson S S Co v Cie Generale Transatlantique  
 Harrison v Shipping Controller  
 Theophilato v Furness, Withy & Co  
 Same v Same (motion)  
 Whitbread v Secretary of State for War  
 Owners of S S Arachne v Ministry of Shipping  
 Scaliaris v Mavlankar  
 Emido Co v Wilson, Holgate & Co  
 British Petroleum Co Id v Asiatic Petroleum Co  
 Cowan Bros Id v H Rymer & Co  
 Comptoir Commercial Anversoise v Power, Son & Co

#### MOTION FOR JUDGMENT.

Performing Right Soc Id v Ducker & Wasserrug

#### REVENUE PAPER.

English Informations.

Attorney-Gen and John Henry Oglander & anr  
 Attorney-Gen and George Edward Monckton

#### Cases Stated.

W R Shove (Surveyor of Taxes) and The National Provincial Bank of England Id  
 The National Mutual Life Assce Soc and F G Baker (Surveyor of Taxes)  
 The Plymouth Mutual Co-operative & Industrial Soc Id and The Commrs of Inland Revenue  
 S Binney and The Commrs of Inland Revenue  
 G R Stenson (Surveyor of Taxes) and The Bosch Magneto Co Id  
 R A Paul (Surveyor of Taxes) and The Governors of the Godolphin & Latymer Girls' School The Governors of the Godolphin & Latymer Girls' School and R A Paul (Surveyor of Taxes)  
 The Bowden Brake Co Id and The Commrs of Inland Revenue  
 J Curtis (Surveyor of Taxes) and J. J. Holdsworth  
 Charles Radcliffe and The Commrs of Inland Revenue  
 Thomas Stockham (Surveyor of Taxes) and W. Simpson  
 W & G Weller and The Commrs of Inland Revenue  
 Koamos Photographics Id and The Commrs of Inland Revenue  
 The Provident Mutual Life Assce Assc and W Ogston (Surveyor of Taxes) W. Ogston (Surveyor of Taxes) and The Provident Mutual Life Assce Assc  
 The National Provident Institution and B J Brown (Surveyor of Taxes)  
 B J Brown (Surveyor of Taxes) and The National Provident Institution  
 H E Robbins and The Commrs of Inland Revenue  
 The Commrs of Inland Revenue and John Blott  
 The Commrs of Inland Revenue and Marine Steam Turbine Co Id  
 The Commrs of Inland Revenue and William B Gittus  
 The Commrs of Inland Revenue and Benjamin Isaac Greenwood  
 A H Stocker and The Commrs of Inland Revenue

#### LAND VALUES—APPEAL FROM DECISION OF REFEREE.

The Hon Esther Ann Willoughby & Henry Peter Marriott v The Commrs of Inland Revenue

#### PETITIONS UNDER THE LICENSING (CONSOLIDATION) ACT, 1910.

Johnson & Darlings Id and The Commrs. of Inland Revenue (re "Golden Fleece Inn," 18, Main-street, Spittal)  
 Johnson & Darlings Id and The Commrs of Inland Revenue (re "Gardeners Arms," Amble, Northumberland)  
 The Plymouth Breweries Id and The Commrs of Inland Revenue (re "The Prince Arthur" Public House, Cecil-street, Plymouth)

## PETITIONS UNDER FINANCE ACT, 1894.

In the Matter of the Estate of the Marquess of Abergavenny, dec  
In the Matter of the Estate of the Marquess of Abergavenny, dec

## DEATH DUTIES.

In the Matter of Arthur George Earl of Wilton, dec

## SPECIAL CASE UNDER R.S.C., ORDER 34.

Attorney-Gen and The Company of Proprietors of Selby Bridge, Yorks

## APPEALS AND MOTIONS IN BANKRUPTCY.

Appeals from County Courts to be heard by a Divisional Court sitting  
in Bankruptcy, Pending 16th April, 1919.

Nil.

Motions in Bankruptcy for hearing before the Judge, Pending 16th  
April, 1919.

In re W F Halsted Expte The Public Trustee v Arthur Page (The  
Trustee of the property of the bankrupt)

In re M Taper Expte The Trustees v Jacob Taper

In re M Taper Expte The Trustees v Julius Kamlett and Mary  
Kamlett

In re W D K Thellusson Expte R H E Abdy v The Official Receiver

## Winding-up Notices.

## JOINT STOCK COMPANIES.

## LIMITED IN CHANCERY.

London Gazette.—TUESDAY, April 15.

ALEXANDRA HOTEL AND HYDRO, LTD. (IN VOLUNTARY LIQUIDATION).—Creditors are  
required, on or before May 30, to send in their names and addresses, and par-  
ticulars of their debts or claims, to Francis McBain, Royal Exchange, Middles-  
brough, liquidator.

HENRY B. MERTON & CO., LTD.—Creditors are required, on or before Oct. 31, to  
send their names and addresses, and the particulars of their debts or claims,  
to Sir Woodburn Kirby, 2, Metal Exchange-bldgs., Leadenhall-st., liquidator.

MERTON METALLURGICAL CO., LTD.—Creditors are required, on or before Oct. 31, to  
send their names and addresses, and the particulars of their debts or claims, to  
Sir Woodburn Kirby, 2, Metal Exchange-bldgs., Leadenhall-st., liquidator.

## JOINT STOCK COMPANIES.

## LIMITED IN CHANCERY.

London Gazette.—FRIDAY, April 18.

BRADMAN'S STORES, LTD.—Creditors are required, on or before May 24, to send in  
their names and addresses, with particulars of their debts or claims, to Percy E.  
Shack, 28, Great James-st., liquidator.

F. BRAYNE & CO., LTD.—Creditors are required, on or before May 27, to send their  
names and addresses, and particulars of their debts or claims, to Tom S. Jones,  
54, New Broad-st., liquidator.

BRITISH HONDEUR PRODUCTS CO., LTD.—Creditors are required, on or before Aug. 1,  
to send their names and addresses, and the particulars of their debts or claims,  
to J. E. Davis, 3, London Wall-bldgs., liquidator.

"BRODFIELD" STEAMSHIP CO., LTD.—Creditors are required, on or before May 12, to  
send their names and addresses, and the particulars of their debts or claims,  
to Sydney Thornhill Tracey, 34, Clement's-lane, liquidator.

NEW MANUFACTURING CO. (FELLOWS), LTD.—Creditors are required, on or before  
May 30, to send their names and addresses, and the particulars of their debts  
and claims, to William Sydney Morgan, 18, St. Swithun's-lane, liquidator.

PAUL MORTON & SONS, LTD.—Creditors are required, on or before May 3, to send  
their names and addresses, and the particulars of their debts or claims, to  
Samuel Sutcliffe, 6, Harrison-rd., Halifax, liquidator.

S.O.S., LTD.—Creditors are required, on or before May 31, to send their names and  
addresses, and the particulars of their debts or claims, to James Henry Nichol-  
son, 18, St. Swithun's-lane, liquidator.

S. O. S. (YORKSHIRE), LTD.—Creditors are required, on or before May 31, to send  
their names and addresses, and the particulars of their debts or claims, to James  
Henry Nicholson, 18, St. Swithun's-lane, liquidator.

WILLIAM TAYLOR & CO. (HAMMERSMITH), LTD. (IN VOLUNTARY LIQUIDATION).—  
Creditors are required, on or before May 2, to send their names and addresses,  
and particulars of their debts or claims, to John T. Rankin, Pinner's Hall,  
54, Old Broad-st., liquidator.

## JOINT STOCK COMPANIES.

## LIMITED IN CHANCERY

London Gazette.—TUESDAY, April 22.

NATIONAL AIRCRAFT CO., LTD.—Creditors are required, on or before May 31, to send  
their names and addresses, and the particulars of their debts or claims, to  
Ebeneser Henry Hawkins, 4, Charterhouse-sq., liquidator.

MOROS UNION PROPRIETARY, LTD.—Creditors are required forthwith to send their  
names and addresses, and the particulars of their debts or claims, to Frederick  
William Lord, 37, Walbrook, liquidator.

JAMES SMITH & SONS (DARLEY DALE), LTD.—Creditors are required, on or before  
May 12, to send their names and addresses, and the particulars of their debts  
or claims, to Henry Bertrand Marshall, 38, Barton-arcade, Manchester, liquidator.

## Resolutions for Winding-up Voluntarily.

London Gazette.—TUESDAY, April 15.

National Utility Rabbit Association, Alexandra Hotel and Hydro, Ltd.  
Ltd. Morris "The" Writer, Ltd.  
Metropolitan Associated Engineers, Ltd. Selhurst Picture Palace, Ltd.  
Smith's Motor Depot, Ltd. Northern Engineering and Construction  
Wisech Public Hall Co., Ltd. Co., Ltd.  
Schneble mill Brewing Process, Ltd. Holloway & Smyth, Ltd.  
British Overseas Bank, Ltd. R. Martens & Co., Ltd.

London Gazette.—FRIDAY, April 18.

Anglo East African Rubber Plantations, "Field" and "Queen" (Horace Cox),  
Ltd. Ltd.  
Carol Syndicate, Ltd. Huddersfield Conservative Club Co., Ltd.  
Ransome Motor Co., Ltd. Welbeck Steam Fishing Co. (Grimsby),  
British Gold Shell Ring Co., Ltd. Ltd.  
David Ormerod & Co., Ltd. Stanwell Chemical Works, Ltd.  
Hepworth Manufacturing Co., Ltd. Skewen Wernavon Colliery Co., Ltd.  
Tyndale Coal Co., Ltd. West of England and Great Beam Clay  
E. W. Jones, Ltd. Co., Ltd.  
British Industrial Corporation, Ltd. Associated Wholesale Newsagents, Ltd.  
Broom Lays Estate Co., Ltd. Bradmans Stores, Ltd.

London Gazette.—TUESDAY, April 22.

James R. Kelly & Co., Ltd. English and American Shipping Co.,  
Kaylin Spring Co., Ltd. Ltd.  
Willats & Co., Ltd. United Egyptian Lands, Ltd.  
Torbay and Dart Paint Co., Ltd.

## Creditors' Notices.

Under 22 & 23 Vict. cap. 35.

## LAST DAY OF CLAIM.

London Gazette.—FRIDAY, April 11.

ARMER, BENJAMIN, Littleport, Isle of Ely, Cambridge. May 20. Wall & Campbell,  
Ely, Cambs.

BACKHOUSE, ARTHUR, Torquay. May 31. Trewhitt, Clarke & Robson, Sunderland.

BAILEY, ANNEAL EMMETT, Torrington-sq. May 31. Arthur C. Dowding, 14, South-sq.

BATNAM, FRANCES MARY, Norwich. May 26. Henry A. Scott, 7, Staple inn.

BEDDOER, HENRY ROSCOE, Fawkham, Kent. May 16. Dawson & Co., 2, New-sq.

BLAKE, EMMA, Eynsham, Oxford. May 12. J. Arnatt, 31, John-st., Bedford-row.

BROADBENT, GEORGE HARRY, Audenshaw, Lancs., Surgeon. May 5. E. J. Carlisle,  
Manchester.

BROMLEY, FRANCIS, Sheffield. June 1. Bagshaw & Co., Sheffield.

BROWSE, GEORGE, Brixham, Devon. June 1. J. Robertson Owen, Brixham.

CAIRIS, NICHOLAS ALEXANDER, Andros, Greece. May 14. William A. Crump & Son,  
17, Leadenhall-st.

CHADS, CAROLINE MARIA, Southsea. June 1. Capron & Co., Savile-pl., Conduit-st.

CHITTY, JAMES MALCOLM, Esher, Surrey. May 12. Tomlin & Dinwiddy, 8, Old  
Burlington-st.

CICUTIRA, JOHN PAUL, Loughton, Essex. April 30. Attwater & Liell, 110, Bishop-  
sgate.

CLARK, GODFREY LEWIS, Talygarn, Glam. May 10. L. G. Williams & Prichard,  
Cardiff.

COURTENAY, GEORGE, Bournemouth. May 20. Godfrey J. Freeman, 30/31,  
Clements-in.

CORNELIUS, GEORGE WILLOUGHBY, Constitutional Club, Middlesex. May 15. Theodor  
Goddard & Co., 10, Serjeants' inn, Temple.

CUTY, MARY ANNE, Aston Tyrrold, Berks. May 20. C. Alfred Pryce, Abingdon.

DE KEEEL, GEORGES, Bridlington. May 12. Sanderson & Co., Hull.

DE FOLD, JOHN ANTHONY (otherwise JOHN), Liverpool, Marine Engineer. May 9.  
Douglas Houston, Duchy of Lancaster Office, London.

DEERING, SAMUEL FREDERICK, Hastings. May 10. Prondfoot & Chaplin, 5, Vera-  
lam-bldgs.

DOUGLAS, KENNETH WHITWORTH, Llandudno. April 16. Chamberlain & Johnson,  
Llandudno.

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